FISCAL YEAR 1986 AUTHORIZATIONS FOR THE U.S. CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, U.S. TRADE REPRESENTATIVE; AND TRADE RECOMMENDATIONS FOR REPORT TO BUDGET COMMITTEE

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

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FISCAL YEAR 1986 AUTHORIZATIONS FOR THE U.S. CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, U.S. TRADE REPRESENTATIVE; AND TRADE RECOMMENDATIONS FOR REPORT TO THE BUDGET COMMITTEE

THURSDAY, FEBRUARY 21, 1985

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:14 a.m., in room 1100, Longworth House Office Building; Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[Press release announcing the hearing follows:]

[For immediate release, Thursday, Feb 7, 1985]

The Honorable Sam M. Gibbons (D., Fla.), Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Announces Hearings on Fiscal Year 1986 Authorizations for the U.S. Customs Service, International Trade Commission, U.S. Trade Representative, and on Trade Recommendations for March 15 Report to the Committee on the Budget

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced a public hearing on Thursday, February 21, 1985, on: the FY 1986 budget for the U.S. Customs Service; the FY 1986 budget for the U.S. International Trade Commission; the FY 1986 budget for the Office of the U.S. Trade Representative; and the FY 1986 budget for the trade adjustment assistance programs for workers and firms administered by the Departments of Labor and Commerce.

The hearings will be held in the main hearing room of the Committee on Ways and Means, 1100 Longworth House Office Building, beginning at 10:00 a.m. Subcommittee markup of its budget recommendations to the full Committee on Ways and Means will be held at a later date.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Requests to be heard must be made by telephone to Harriett Lawler [telephone (202) 225-3627] by noon, Friday, February 15, 1985. The oral request should be followed by a formal written request addressed to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

In view of the limited time available to hear witnesses, the Subcommittee will not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance will be encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

It is urged that persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for Members to question witnesses. In addition, witnesses, may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available for questioning witnesses, witnesses appearing before the Subcommittee are required to submit 200 copies of their prepared statements to the full Committee office, 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Requests to be heard must contain the following information: (1) The name, full address, and capacity in which the witness will appear, as well as a telephone number where he or his designated representative may be reached; (2) A list of any clients or persons, or any organization for whom the witness appears; and (3) A topical outline or summary of the comments and recommendations in the full statement.

The above information should also be incorporated in the prepared statements to be presented in person as well as those filed for the printed record of the hearing.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six (6) copies by the close of business Friday, February 22, 1985, to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 100 additional copies for this purpose if provided to the Committee office before the hearing begins.

Chairman GIBBONS. Good morning, ladies and gentlemen.

The sound system is not working. In these days of austerity you know what that means. So everybody has to speak loudly, and I will stand up so you can hear me.

Today the Subcommittee on Trade of the Committee on Ways and Means will hold its annual hearing to review the President's budget request for trade agencies and programs within our jurisdiction.

The purpose of the hearing is to consider fiscal year 1986 budget levels and other provisions, including the 1986 authorization bills for the U.S. International Trade Commission, the U.S. Customs Service, and the U.S. Trade Representative, which we will mark up at a later date, as well as to help the subcommittee make recommendations to the full committee on the March 15 budget report.

Finally, this hearing will provide an opportunity for annual oversight of agency programs and activities.

Today we will receive testimony first from the ITC and administration officials, and then from the private sector.

Let me announce also at this time that it is the intention of the Chair subject to, of course, the subcommittee's approval, that we just continue right on through the lunch hour and finish this hearing as expeditiously as possible.

I am afraid the witnesses are going to have to stand up to testify and talk, so when I call you, until we get this sound system fixed, you will have to follow this rule.

Our first witness today is James Frierson, Special Assistant to the U.S. Trade Representative.

I understand the technician is working on the system. Let us suspend until he at least turns off the noise.

[Short recess.]

Chairman GIBBONS. Without objection, I would like to insert in the record at the appropriate point the responses that we have received from the Customs Service and from other agencies, the Departments of Labor and Commerce, to written questions. Without objection, all prepared statements will be included in the record in full, and I would ask all witnesses to please summarize their statements.

While the sound system is acting up, if witnesses could stand and talk as loudly as they can, I would appreciate it. Why do we not go ahead.

STATEMENT OF JAMES W. FRIERSON, SPECIAL ASSISTANT TO THE U.S. TRADE REPRESENTATIVE, ACCOMPANIED BY JOHN P. GIACOMINI, DIRECTOR, OFFICE OF MANAGEMENT, AND SANDRA KRISTOFF, DIRECTOR, TARIFF AFFAIRS

Mr. FRIERSON. Mr. Chairman, members of the subcommittee, we from the U.S. Trade Representative are pleased to be here to present our request for fiscal year 1986. With me at the table is our Director of our Office of Management, Mr. John Giacomini, and our Director of Tariff Affairs, Sandy Kristoff.

This year's budget from the President and the resource request which we have submitted to you reflected the program freeze of 10 percent administrative cost reduction and a 5-percent pay cut that has been proposed for most Federal agencies. During these past few months, we have been reconsidering our organizational effort in an effort to realign the staff to better meet our mandates and make the best use of personnel and funding.

There are some changes which we and Ambassador Brock will be notifying the subcommittee of in the coming days. This time last year we reported to you on the planning for the implementation of the harmonized system. This system is meant to provide a new international, integrated tariff structure to replace the current U.S. Tariff Code. The USTR is the lead agency for the implementation of this system, now scheduled to go into effect in January 1987.

This streamlined, international commodity and description system will be a useful tool for more efficient handling of various types of trade traffic, tariffs and for the collection of statistical data which will directly impact importers, exporters, traffic managers and Customs officials throughout the world. A common code and tariff language will greatly facilitate international trade by ensuring that products are classified in the same manner as they move from country to country.

This is an enormous complex undertaking which is labor and data intensive. During the past year, we have made progress toward our goal by beginning the staffing for the harmonized system in Geneva. The chief negotiator for the harmonized system and a senior attache are now in Geneva. A line-by-line review of the ITC's conversion of the U.S. tariff schedules has been completed. Negotiations with the contracting parties continue in Geneva under the auspices of the GATT.

Looking to this year, 1985, we will be moving forward on the renegotiation of bound tariffs to assure that the balance of tariff obligations is maintained. The Geneva Work Program has evolved in two phases. Phase 1 was the GATT article 28 exercise on the harmonized system, which was launched in a 2-week series of bilateral meetings in Geneva this past December. This phase consists of technical discussions aimed at identifying classification and nomenclature errors and essentially narrowing the number of issues where negotiation will be necessary. We expect to complete this phase by mid summer. Over the August recess we will be assessing the effect on U.S. exports of changes in rates of duty in foreign schedules and will prepare for phase 2 of the harmonized system exercise, that is, the formal article 28 negotiations which are expected to begin in September. Our objective is to conclude these negotiations by December 1985 so that congressional consideration of the implementing legislation can begin early in 1986. We will begin close consultations with the committee on the harmonized code in the near future.

On another subject, as the President indicated in his State of the Union Message, and as reinforced by Prime Minister Thatcher of Great Britain in joint session, another major U.S. trade policy objective for us and many of our trading partners is to launch a new round of multilateral trade negotiations in 1986. We believe that these negotiations are essential to implement the commitments made to rollback protectionist measures at both the Williamsburg and London Economic Summits. A new round of multilateral trade negotiations would greatly contribute to worldwide economic recovery by expanding trade opportunities, addressing specific forms of protectionism, improving the functioning of the GATT, and extending international trade rules to new areas such as services, intellectual property rights and investment that are crucial to the future growth of world trade and to our own performance. We will be working closely with members of this subcommittee, the full committee and other trade committees, the private sector and the labor community as we move forward with this critical initiative. We cannot hope for international success until we have a firm constituency here at home for this undertaking. The advice we will be soliciting from all of you in the coming months will guide us in our decisions.

Mr. Chairman, while much attention has been placed on our efforts to move forward with a new round, there are a host of bilateral discussions that are moving forward with varying degrees of success. I will not take your time to enumerate the status of all our bilateral issues, but I will simply highlight a few areas.

As you are aware, in the 1984 Trade Act we were given authority to begin discussions with our largest trading partner and close ally, Canada. We are hopeful within the next few months that we can begin negotiations with the Canadians on a comprehensive agreement to liberalize trade between our two countries to our mutual advantage. We are also coming upon talks on February 27 at the deputy level in Ottawa on a sector of interest I know to this committee and other members, the timber and woods product sector, and at the President's meeting with the Prime Minister in Canada on March 17 and 18, we are looking for progress on talks in other sectors of our trade.

On Japan, Ambassador Brock has recently returned from a trip to Japan, at which time he completed the joint declaration which eliminated semiconductor tariffs between our two nations. Discussions were also held with Prime Minister Nakasone and other high ranking officials on the important sectors of telecommunications, timber and wood products again, and computers.

We are using every means possible to increase productivity and managerial effectiveness with the resources we have. For instance, to supplement our permanent staff and to hold down costs, we make extensive use of nonreimbursable details, White House fellows, Presidential management interns and other fellows. We are continuing our successful volunteer university intern program as well. This alone saves about $100,000 each year.

We are exercising tight control over all our expenditures and especially for overtime, travel, and procurement. We are complying with the Federal Manager's Financial Integrity Act of 1982.

Mr. Chairman, we believe that our request reflects budget restraint. We plan to meet our mandates through continuous review of our priorities and utilization of the resources which we have.

We would be pleased to respond to your questions.

[The prepared statement follows:]

STATEMENT OF JAMES W. FRIERSON, SPECIAL ASSISTANT TO THE U.S. TRADE REPRESENTATIVE

Mr. Chairman, I am pleased to appear before you to present the Office of the U.S. Trade Representative's resource request for fiscal year 1986. With me is our Assistant U.S. Trade Representative for Congressional Affairs, Bill Maroni, and the Director of our Office of Management, John Giacomini.

The President's budget and the resource request which we submitted to you reflect the program freeze, 10% administrative cost reductions and a 5% pay cut that have been proposed for most Federal agencies. During the past few months, we have been reconsidering our organizational structure in an effort to realign our staff to better meet our mandates, and make the best use of personnel and funding. We will notify the subcommittee of the changes once they are final.

Last year, we reported to you on the planning for the implementation of the harmonized system or HS. This system will provide a new international, integrated tariff structure to replace the current, burdensome U.S. Tariff Code. The USTR is the lead agency for implementation of the HS, now scheduled to go into effect in January 1987.

The HS is a streamlined, international commodity coding and description system. It will be a useful tool for more efficient handling of various types of trade traffic, tariffs, and for the collection of statistical data which will directly impact importers, exporters, traffic managers, and custom official throughout the world. A common code and tariff language will greatly facilitate international trade by ensuring that products are classified in the same manner as they move from country to country, reducing the cost of exporting for U.S. products, making the collection and comparison of trade statistics easier, and promoting more certainty and understanding in the negotiation, application, and interpretation of trade agreements.

This is an enormous, complex undertaking which is labor and data intensive. During the past year, we have made progress toward our goal by beginning the staffing for the harmonized system in Geneva—the chief negotiator for HS and a senior attache are now in Geneva; the line-by-line review of the ITC's conversion of the U.S. tariff schedules has been completed. Negotiations with the contracting parties continue in Geneva, under the auspices of the GATT.

During 1985, we will move forward on the renegotiation of bound tariffs to assure that the balance of tariff obligations is maintained. The Geneva work program has evolved in two phases. Phase one was the GATT article 28 exercise on the harmonized system and was launched in a two week series of bilateral meetings in Geneva in December 1984. This phase consists of technical discussions aimed at identifying classification and nomenclature errors and narrowing the number of issues where negotiation will be necessary. We expect to complete this phase by mid-summer.

Over the August recess we will assessing the effect on the U.S. exports of changes in rates of duty in foreign schedules and will prepare for phase II of the HS exercise, that is, the formal article 28 negotiations which are expected to begin in September. Our objective is to conclude the negotiations by December 1985 so that congressional consideration of the implementing legislation can begin early in 1986. We will begin close consultations with this committee on the harmonized code in the near future.

As the President indicated in the state of the Union message, another major U.S. trade policy objective is to launce a new round of multilateral trade negotiations in 1986. We believe that new negotiations are essential to implement the commitments made to rollback protectionist measures at both the Williamsburg and London economic summits. A new round of multilateral trade negotiations would greatly contribute to worldwide economic recovery by expanding trade opportunities, address specific forms of protectionism, improve the functioning of the GATT, and extend international trade rules to new areas such as services, intellectural property rights and investment, that are crucial to the future growth of world trade.

We will be working closely with members of this committee, the private sector and the labor community as we move forward with this critical initiative. We cannot hope for international success until we have a firm constituency here at home for this undertaking. The advice we will be soliciting from all of you in the coming months will guide us in our discussions.

While much attention has been placed on our efforts to move forward with a new round, there are a host of bilateral discussions that are moving forward with varying degrees of success. I will not take your time to enumerate the status of all our bilateral issues, but briefly mention a few areas that deserve highlighting.

As you are aware the 1984 Trade Act passed by Congress last session gave us authority to begin discussions with our largest trading partner and close ally, Canada. We are hopeful that within the next few months we can begin negotiations with the Canadians to liberalize trade between our two countries to our mutual advantage. As you know, there currently exist issues that need to be addressed. We are optimistic about talks scheduled for February 27 on the timber and wood products sectors.

Ambassador Brock has recently returned from a trip to Japan, at which time, he completed the joint declaration on the semi-conductor tariff elimination. Discussions were held with Prime Minister Nakasone and other high-ranking officials on the important sectors of telecommunications, timber and wood products, and computers.

We are using every means possible to increase productivity and managerial effectiveness with the resources we have. For instance, to supplement our permanent staff and to hold down costs, we use nonreimbursable details, White House fellows, and Presidential management interns. We are continuing our successful Volunteer University Intern Program. The program has grown rapidly—we now have 45-50 interns each year out of more than 300 applicants. They provide useful research and statistical support besides getting an inside view of the operations of a government agency. This program alone saves us more than $100,000 each year. Also, we are continuing to exercise tight control over all expenditures and especially for overtime, travel, and procurement. We have also complied with the Federal Managers' Financial Integrity Act of 1982 by submitting positive reports to the President and to the Congress on internal accounting and administrative controls.

Mr. Chairman, we believe that our request reflects budget restraint. We plan to meet our mandates through continuous review of our priorities and utilization fo the resources which we have.

I would be pleased to respond to your questions.

Chairman **Gibbons**. I have got some observations before I have any questions.

First of all, we have got a function here that is unique to the Congress. There are very few places in the Constitution that the powers of Congress are so clearly laid out as they are in article I, section 8, subsection 3. It says the Congress shall control international trade. Not the President. Not the court system. Not anybody else but the Congress shall control international trade.

Over the years, the Congress has attempted to do that. International trade is now the most significant largest operation of the U.S. Government and industry in the United States. International trade is now a $536 billion annual business. It cannot be neglected. It cannot be ignored. It does not need to be subsidized, but it certainly needs to be serviced and America's rights around the world to be vigorously and adequately defended.

We live in a far more competitive environment than we have ever lived in. America's share of international trade has flipped. Obviously that is always going to be a problem when anything is growing as rapidly as international trade is. Although most of the new jobs in America have been created in areas directly related to international trade, we are running a current trade deficit of $123 billion a year, a deficit unprecedented in size and its impact upon the American economy.

Daily we see businesses going into bankruptcy or seeking protection under chapter 11 of the Bankruptcy Act because they can no longer compete, and we see farms as recently as this morning in the news that can no longer compete, and it is principally because we have lost our international markets. We can attribute many reasons for that, but that is not the purpose of this hearing today.

But I want to stress and stress very vigorously that this chairman of this subcommittee, and I hope this subcommittee do not intend to stand idly by and see America's biggest activity, far larger than the security activity, far larger than the home building industry, far larger than anything else just emasculated because there are not enough people out there to administer the program and to look after the rights and responsibilities that Americans have.

Now, your budget got whacked. You are our representative in the White House. It is through you that we delegate to the President the power to have any role in international trade.

I am constantly disturbed when I see international trade sloshing around between the different agencies down there. Years ago, we pulled the trade responsibility out of State because we thought they were trading off diplomatic cookies for rights that American business people ought to have. We pulled antidumping and countervailing duty law administration out of Treasury because we never could get them to act vigorously. We put it over in Commerce where they can administer it a little better, and they have administered it better.

But our representative in the White House and at the President's right elbow is the U.S. Trade Representative. He is not only an appointee of the President, but he is a representative of the Congress of the United States under our article I, section 8, subsection 3 of the Constitution.

Now, I do not think you can carry out your responsibilities that Congress wants carried out with this kind of budget that you have been handed by the Office of Management and Budget. I do not think they understand the function too well or perhaps they are trying to ignore the Congress, but you are our representative and we want you appropriately staffed and vigorously telling the President what the Congress' views are on trade and negotiating for the Congress in the international arrangements.

Let me ask you, the biggest change that we have got coming up, that is coming up just like a glacier moving down the mountainside, is the change in the harmonized system of tariffs. Does this budget have any money set aside in it for that purpose?

Mr. **Frierson**. Mr. Chairman, the initial efforts at planning for this year were efforts designed to look at everything that we got as a responsibility. I think the understanding of the full scope and duration of the harmonized system for the current year, was fully accurate. I think there was initially some confusion about how long that work would be going on, how long the negotiations would require, how long our own internal process and our multilateral process would take.

This is fundamental for our activity. There is a reduction from the current year for us, and that will have to be compensated for with other activities that are not as essential to our system as the harmonized system. We are not scrimping on the harmonized system. We know we are going to have to fulfill every ounce of that requirement, and the cuts that we will have to make to accommodate that will come from other areas of other more expendable programs.

So the answer to your question is, yes, it is going to be taken care of because it is going to be taken care of by us, and yes, it is going to mean some cuts in other areas.

Chairman **Gibbons**. What other areas are you going to cut in? Just tell me.

Mr. **Frierson**. Our Director of Management, Mr. Giacomini, knows the ins and outs of the budget better than I. I will defer to him on this. It simply means that other categories that we have that are practically given for us are travel and the actual number of people we have. The full-time equivalencies, you will note, stay the same into the fiscal year, 136 full-time equivalents. That is where we will not cut. We would cut in our use of contracts on the outside, for contractors who do studies for us, consultants who do studies for us, people who are other than permanent full-time employees on the personnel side and, frankly, probably more dramatically than anything else is in the area of our infrastructure, what I would call our information side, the computers that we use for information handling and for dealing with responses and inquiries from Congress and the private sector.

The supplying of the office and the infrastructure will have to be cut back. There is simply nowhere else it will come from. We have gone that far and looked that far.

Chairman **Gibbons**. I am not satisfied with the answer that you have given me. As I say, if anything, I wish your office would be more vigorous and more effective and more dominating in the entire picture. As I said, it looks to me like we moved trade out of State and it looks like the President has moved it back over to State; and I want to say while I have a great admiration and respect for Secretary Shultz, I do not think we want, the Congress wants, or the American business wants its business affairs handled by the State Department. There is just a lack of empathy with that particular Department in handling this, and we want it handled by the USTR.

So is there anything else in here that you are going to have to cut? You cannot do that for the harmonized system of tariffs, as I understand it, which will substantially affect the rights of many Americans under these changes. This harmonization means change. Some tariffs are going to go up and some are going to go down, and there are going to be lots of decisions that will have to be made, and I do not think you can handle it with fewer people. It has taken God awful long to get as far as we have now, and this is a watershed year in that whole process.

Mr. **Frierson**. Mr. Chairman, on the harmonized system, let me do my best to assure you that we are dedicating resources that have not been around even in years past, including additional people and detail.

Chairman **Gibbons**. The President said in his State of the Union message and he has said since then, he would like to move ahead on another international negotiation. You have not had sufficient steam to get that going in the past with the budgets you have had. How are you going to handle the harmonized system and the President's objectives and, I hope, the Congress' objectives that we get going on another round of negotiations?

Mr. **Frierson**. Mr. Chairman, I think we view the new round as something that requires resources other than just dollars. There is a tremendous need for education and understanding between the business community and Congress and labor, business at large, and the people who mold opinions in this country, and those are not just dollars that produce that result. That is very close consultation, concensus on what our national objectives are. A lot of that is still being formulated.

I think that you will see that in several of these sectors, but there is a real interest on this. It is not just a question of additional staff members or additional travel, but it is real heart-to-heart, mind-to-mind type consultation, unlike the new round where you can predict the resources you will need to carry out that conversion and that negotiation in Geneva. The new round is a very different matter. It is going to mean more of Ambassador Brock's time, more of the time of our deputies here and in Geneva. But it is not just a question of dollar resources. It is much more of a question of the political and economic climate we are in, and we are hopeful that as indicated by Prime Minister Thatcher yesterday, that climate has greatly improved from where it was a year and 2 years ago.

Chairman **Gibbons**. Well, I am optimistic enough to believe in miracles, but I also am 65 years old and I know they do not happen unless there is a lot of sweat put in. You cannot do this thing with volunteers, and there is a limit to the number of hours that most people can work, work effectively. So I just remind you again that you are handling the biggest function that the United States is involved in. Nothing is as large as the area that you are the principal representative in, and I do not see how you can do it with the budget you have got.

Mr. Jenkins.

Mr. **Jenkins**. Thank you, Mr. Chairman.

I want to follow up somewhat. The chairman indicated that he is concerned about the biggest operation of any part of the Government, which is trade. This is in your ballpark. We are not doing too well right now, are we, in that area? Looking at the trade deficits, do you really think we are doing very well?

Mr. **Frierson**. Just yesterday Ambassador Brock testified before the Joint Economic Committee on the trade deficit in big picture terms, and I think you would glean from his testimony there are lots of factors that impact on the deficit itself: Our own country's economic path that it has chosen to take, the domestic budget deficits that have been the result of that inner forecast for the immediate future.

Our concern, Congressman, is not a number in itself as a measure of progress, but it is an opening of markets and greater access to markets in areas particularly where this country is most competitive and trying to ensure that through negotiation, and in some cases those results will occur soon, and in other cases they are far down the road, but they have a lot to do with our economic security and our future performance in the world economy.

Mr. **Jenkins**. Some of the complaints I hear from previous rounds of negotiations are that we have not done an adequate job, professional work. Many times we have been shortchanged, and our negotiators may not have done as well as they should have. If you are now looking at a new round, are you telling the committee that you can do without any additional professional assistance or that you need no additional money to go into a new round of negotiations?

Mr. **Frierson**. I think you know from your experience on this subcommittee, Congressman, that the virtue, the advantage that USTR has as a coordinating agency is the ability to draw resources from the other line agencies that also have a major stake in trade, to draw those as detailed people, to draw those as dollars occasionally, to support other work. We are in probably a better position to call upon that than anyone else would be in trade terms, because we are a coordinating agency. And obviously we have to make heavy use of that which historically we have done. As we go into preparations and groundwork for a new round, USTR will employ this drawing power to an even greater extent.

We have no choice. That is what we have had to do all along. That is what we are going to be continuing to do.

Mr. **Jenkins**. So you see no need then for additional money in the event that we have a new round, as you and the President have advocated. Do you think you are adequately staffed to handle that or you have access to resources?

Mr. **Frierson**. Yes, sir; particularly with that latter caveat. That is an extremely important part of the understanding, and in some of the provisions of the Trade Act of 1984, there were specific provisions which members of this committee and others insisted on inserting, calling upon the other agencies to provide that support, and that is absolutely crucial.

Mr. **Jenkins**. I think you may not be able to answer this, but while I have you here, let me ask anyway.

Could you tell me what the current status of the countervailing duty case involving textiles and apparel with Indonesia is?

Mr. **Frierson**. There have been some recent conversations in this area. Our authority on that is our general counsel who is Claude Gingrich, and I think in that particular case we would simply have to take your question and respond to it in writing for the record just as promptly as we could because he is not here today, and I do not think there is anyone else who is familiar with it.

Mr. **Jenkins**. I think a final determination has to be made by the 3d or 4th of March, if I recall correctly. I am always concerned about the cases, a hasty settlement being entered in right at the last minute that negates a lot of the record. But I have just been informed by a staff member that someone from the office will be by to discuss this with me so I will bypass it.

Mr. **Frierson**. That is correct, sir.

[The following was subsequently received for the record:]

Questions for USTR

(1) What is the current status of the countervailing duty case involving certain textiles and apparel from Indonesia?

Answer. On February 28, 1985, the Indonesian government entered into a subsidies code commitment with Indonesia and on March 4, 1985, Indonesia signed the GATT subsidies code in Geneva. Therefore, in accordance with section 702(b) of the Tariff Act of 1932 as amended (19 U.S.C. 1671(b)), as of March 4, 1985, Indonesia is a "country under the agreement" and is entitled to the injury test in all countervailing duty investigations. The present countervailing duty case has been terminated under section 303 and a preliminary determination has been issued under Section 703.

(2) Are there any discussions currently underway with the Indonesian Government concerning this case or the verification trip?

Answer. There are no discussions underway with the Indonesians concerning this case or the verification trip. We will be consulting regularly with the Embassy on this agreement to monitor the various provisions.

(3) What would the effect of such an agreement be on the CVD case?

Answer. As outlined in question 1, under Section 701 the domestic industry is required to allege and the United States International Trade Commission is required to determine whether imports of certain textile and mill products from Indonesia cause or threaten material injury to the United States.

(4) When did these discussions begin?

Answer. U.S. Government officials have discussed accession to the Subsidies Code with Indonesia since 1979. The most recent round of discussions began in October 1984.

Chairman **Gibbons**. Thank you, Mr. Jenkins.

All right, let us see. Mr. Schulze.

Mr. **Schulze**. Mr. Chairman, I guess I do not have any questions. I agree with much of what you have said. If I were to ask a question, I might ask how much is spent in State and Commerce and Agriculture and USTR and in the White House and other places on trade? I am sure you do not have that now, but it is a lot and it is diffused and the thrust is diffused.

As the chairman knows, I have a bill that would eliminate all of you and put the trade function back where it belongs, right here. I think it has gone too far and I think it is too diffused, and I do not know that I will get enough support of this committee to pass my bill. But it is sending a very strong message.

I told Ambassador Brock when he went to the GATT ministerial to tell them if they were not going forward, they would be going backward, and they had better make some progress. They did not make any progress. I think GATT is worthless. I will again move in committee to eliminate our contribution to GATT. I think it is worse than worthless because they go over there and they sip at cocktails and cookies and tea and they have accomplished nothing and we think we are getting somewhere in the world of international trade and we are not.

So I hope you can function under this budget. I know we have talked about a new round with GATT. I do not think you should have any additional money for that because I do not think it would get anywhere. I see nothing but obfuscation and the evasion of responsibility in GATT, and the legislation I have proposed puts on a dramatic tariff, a 20-percent tariff, but says any country can eliminate that if they want to sit down and negotiate with us and eliminate all of these barriers that you have been talking to Japan and others about for years and have been unable to get anywhere on.

So I guess I really do not have any questions. I think that if you want to keep the USTR, you had better do something and show us some results. I am sick and tired of hearing about more negotiations. It is not a blank condemnation. You have got some very good people over there who do a good job, but we have got to see results. And just to talk about the dollar imbalances causing this huge trade deficit is not good enough for me.

I have talked to people overseas who have said that you can sell overseas, but you have got to be here and you have got to hustle and you have got to be out doing, and we have got to back these kind of people up.

I thank you for appearing and I hope you get what you need.

Chairman **Gibbons**. Mr. Downey.

Mr. **Downey**. Mr. Chairman, I have served on the committee now since 1979, and I want to say that rarely have I heard the gentleman from Pennsylvania wax more eloquent or more effectively in this matter and I think his forthrightness and style is indicative, perhaps, of a new direction the committee needs to take. I yield to Mr. Jenkins.

Mr. **Jenkins**. While I have not looked at the proposal, it sounds interesting to me also.

Mr. **Schulze**. You might like it.

Mr. **Downey**. I intend to study it carefully myself, I want to tell the gentleman.

Mr. Frierson, nobody really believes that USTR wants or desires this sort of cutback, and I am not going to try and torture you here because, frankly, I just think it is silly. You cannot do the things that need to be done with budget cutbacks any more than the Customs Service can do its job with budget cutbacks.

We all understand the size of the deficits and the need to sacrifice. We all want to sacrifice, but, frankly, I do not think this is one of the areas where it makes a whole lot of sense for us to sacrifice on.

My interest, and I just want to ask you one question, has to do with the sugar quota program that we currently have as policy. Do you think that this is in keeping with what the administration would like to do over the next 4 years in terms of moving toward freer markets and fewer restrictions?

Mr. **Frierson**. Congressman, I have a very particular reason for having to defer on that. Ambassador Brock, whom I work with, is recused on all matters involving sugar because of family business holdings, and that is stated on the record.

Mr. **Downey**. I understand that, and I appreciate the Ambassador's position.

Do you have any sugar holdings or candy holdings yourself?

Mr. **Frierson**. Do I personally?

Mr. **Downey**. Yes.

Mr. **Frierson**. No, Congressman, I do not.

Mr. Downey. Then let me hear your view. I know Ambassador Brock has refused to speak on this. He has also told me that he thinks privately the quota system just does not make a whole lot of sense. It is kind of neat to say we own the candy business and we do not want to talk about sugar. That does not help me any and I do not think it helps those of us who are going to have to deal with the decision in the agricultural bill.

I would like to know from a theoretical perspective, if nothing else, if this is good trade policy.

Mr. Frierson. I do not want to sound as if we close our eyes to matters of policy. What we have done in terms of the organization of the way we handle the issue is Ambassador Lighthizer, who is the deputy for sectoral areas, is simply the end of the line within USTR for all matters involving sugar and several other commodities. Ambassador Brock's immediate office, which I am part of, has simply had to follow that dictate, and I will be happy to get a response from Ambassador Lighthizer.

Mr. Downey. Will you do that, provide a response for me to the record on what USTR's position is with respect to the sugar quotas and what action they would like to see the Congress take in the agricultural bill with respect to them in the next year. Would you, please?

Mr. Frierson. I understand, and we will provide you with the most helpful answer we possibly can.

Mr. Downey. Thank you very much.

Thank you, Mr. Chairman.

Chairman Gibbons. Mr. Frenzel.

Mr. Frenzel. Thank you, Mr. Chairman.

Thank you for your testimony. We are grateful for your appearing here and I will bet you can hardly wait to come back after what you heard. [Laughter.]

I merely want to tell you that I share the chairman's apprehension about a reduction of this size. If every agency in Government would agree to whatever your cut is, 16 percent, I would be glad to vote for them across the board. I would hate to see you be the only hero in the crowd, however, particularly when I thought I heard the President in his State of the Union message indicate he wanted a round of negotiations and I thought I had heard the Prime Minister of the United Kingdom yesterday say she was going to support that adventure.

I do not think we ought to blame our difficulties in the general agreement on tariffs and trade on your office exclusively, but I think what you have heard today does illustrate some of the frustration we feel.

I remember it took us 3 years to get a car for Ambassador Smith over there so we could save great rental expense. I think many of us should have bought him a gocart or a horse and buggy because that is about how quickly they move over there.

I think it is probably a good exercise for you to hear some of these complaints because they are real and the members feel them deeply.

I am sure that we are going to be talking with you from time to time before we pass this bill and with the Ambassador, and we do want to be sure that you have enough personnel so that you can do the job.

I really admire and endorse your effort to reduce the costs, but you should know that there is some nervousness that you may have gone too far, and thank you for your testimony.

Mr. **Frierson**. Thank you, Congressman.

Mr. Chairman——

Chairman **Gibbons**. Yes.

Mr. **Frierson**. On the question of the GATT and frustrations with the GATT, in response to Congressman Frenzel and Congressman Schulze, I think we could sound like Pollyannas if we did not say we have shared the same frustrations in the past on dispute settlement in particular and on any negotiations, particularly when it is a multilateral negotiation.

We approach the GATT for what it is, the only game in town in terms of a true multilateral forum where nations have already made commitments to come to the table on multilateral trade issues. Please understand that through the creative leadership Ambassador Brock has given over the past 4 years there have been other avenues for approaching something like this new round and approaching some of our bilateral problems. We have not been content simply to rely on that existing machinery.

By forming the quadrilateral ministers group Ambassador Brock has injected a personal element of pulling together leading trade counterparts. He has also done it with an expanded group of trade ministers that brought in several of the developing countries as well: Mexico, Brazil, India, all being participants in those very low-keyed, very informal and hopefully very progressive kinds of talks.

There has been some real momentum that has come out of those, and I hope you can understand that also is not a dollar-sensitive kind of activity, but it is very sensitive to creative and political leadership and, hopefully, with the resources we have got that is the kind of thing Ambassador Brock has tried to provide.

Thank you.

Mr. **Frenzel**. Would the chairman yield?

Chairman **Gibbons**. Yes.

Mr. **Frenzel**. I thank you for that explanation, and I would ask further that the USTR can have the greatest operation in the world, staffed by the best people in the world, but things happen at the international level in trade policy development only when heads of State want them to and you are not going to get moved in agriculture and services and high-tech and safeguards and grievance dispute or any of the things that we are working on there until our chief of State decides to raise that item to a high priority with his peers in the industrialized world.

In many respects GATT is a diversionary occupation designed to occupy people's minds until chiefs of state make up their own. May I suggest that it is about time that we tried to escalate the trade to a little higher agenda position on this administration's bill of fare.

Thank you.

Chairman **Gibbons**. Thank you.

Mr. **Frierson**. Thank you, Mr. Chairman.

Chairman **Gibbons**. Mr. Pease.

Mr. **Pease**. Thank you, Mr. Chairman.

I have just one question. I was interested in your testimony when you said Ambassador Brock has recently returned from a trip to Japan, at which time he completed a joint declaration on the semiconductor tariff elimination. Does that mean we are eliminating our tariffs on semiconductors coming in from Japan?

Mr. **FRIERSON**. Yes, it does. From 4.2 to 0.

Mr. **PEASE**. Are we able to do that by declaration?

Mr. **FRIERSON**. That substantive authority was in the Trade Act of 1984. There is a specific provision for that.

Mr. **PEASE**. Does this elimination apply only to tariffs between Japan and the United States?

Mr. **FRIERSON**. No; it is on an MFN basis, so it applies to all of our trading partners.

Mr. **PEASE**. Including Taiwan and Singapore and countries like that?

Mr. **FRIERSON**. Yes, it would.

Mr. **PEASE**. As I recall, about 2 years ago one of our colleagues, Congressman Stark, had legislation in which we would have eliminated the tariffs on semiconductors. Is that correct? Do you recall that?

Mr. **FRIERSON**. Our Director of Congressional Affairs says he does recall that provision.

Mr. **PEASE**. And the committee chose not to adopt it.

Mr. **FRIERSON**. That provision in the Tariff and Trade Act of 1984 was there with the explicit blessings and understanding of our own semiconductor industry. It covers about six semiconductor products.

Mr. **PEASE**. Well, I am told by staff that this was a provision in the 1984 Trade Act which was put in in the Senate and accepted by our conferees. I am not the least bit surprised that our semiconductor industry was in favor of it because it came out in the hearings a couple of years ago on Mr. Stark's bill that we are not interested in being relieved of the tariff when we try to sell semiconductors in Japan. What our industry is interested in is being able to close down American plants, open up plants in Taiwan or Singapore or Japan, assemble the semiconductors over there and bring them back into the United States tariff free. So what we have essentially done is allowed them to get rid of some American jobs and transport them overseas instead.

OK, I just wanted clarification on that. Thank you.

Chairman **GIBBONS**. Thank you, Mr. Pease.

Thank you, Mr. Frierson.

The next witness is the Customs Service, Mr. De Angelus.

STATEMENT OF HON. ALFRED R. De ANGELUS, DEPUTY COMMISSIONER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY GEORGE C. CORCORAN, JR., ASSISTANT COMMISSIONER, ENFORCEMENT; EUGENE H. MACH, ASSISTANT COMMISSIONER, INSPECTION AND CONTROL; ROBERT P. SCHAFFER, ASSISTANT COMMISSIONER, COMMERCIAL OPERATIONS; RICHARD H. ABBEY, CHIEF COUNSEL; D. LYNN GORDON, ACTING COMPTROLLER; AND C. WAYNE HAMILTON, DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT AND PROGRAM ANALYSIS

Chairman GIBBONS. Mr. De Angelus, before you give your statement I am going to recognize Mr. Downey to ask some questions because he has to attend a Budget Committee meeting and we always like to accommodate our members.

Mr. Downey, why don't you proceed with your questions.

Mr. DOWNEY. First of all let me just say I would like to think that all of us on this committee are friends of the Customs Service and in particular those of us who live around airports, as I do, are concerned about a whole series of things.

I am particularly concerned about the question of deterring drug smuggling, and it is in that area that I have a number of fairly technical questions that if you cannot answer here I would appreciate it if you would provide for the record.

One of the things that concerns me in your efforts to deter illicit narcotics traffic you have established requirements for aircraft that had the ability to detect even small civilian airplanes as well as ocean surface targets. Who performed the studies that addressed these requirements?

Mr. DE ANGELUS. We have had several studies ongoing. One, by SRI, a California company, is an internal joint study with the Department of Defense and Customs. Under the auspices of the Vice President there have been a number of other studies, Mr. Downey.

Mr. DOWNEY. Offhand how much have they cost?

Mr. DE ANGELUS. I believe the SRI study cost approximately $300,000. I am not aware of the cost of the others.

Mr. DOWNEY. Would you submit the results of the studies for the committee and make them part of the permanent record?

Mr. DE ANGELUS. We will be happy to submit the SRI and any other studies. The joint study, I believe, is partially classified. We will be happy to give you what we can.

[The information follows:]

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Final Report *October 1984*

ASSESSMENT OF U.S. BORDER COUNTERSMUGGLING ASSETS

Distribution limited to U.S. Government agencies only. Test and Evaluation, 24 October 1984. Other requests for this document must be referred to the Department of the Treasury, Office of Policy Analysis, 15th & Pennsylvania Avenue, N.W., Washington, D.C. 20220.

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I. INTRODUCTION

In July 1984 the Department of the Treasury contracted with SRI International to undertake a study and analysis of current efforts to combat the flow of illegal drugs into the country and to make recommendations to improve these efforts. The major tasks undertaken in this study are as follows:

1. Analyze the adequacy of and make recommendations concerning physical assets to be used in air drug interdiction, and
2. Recommend appropriate roles and responsibilities of the various agencies involved in drug interdiction, based on the analysis of these assets.

This draft final report summarizes the significant analyses, conclusions, and recommendations.

Treasury contracted with SRI in order to obtain an independent judgment concerning the drug interdiction program, to benefit from SRI's earlier work involving estimation of the smuggling threat, and to acquire SRI's experience with various radar systems.

SRI was requested to carry out its portion of the study in a short time frame of three months so that the information and analyses developed could be utilized in making resource allocation decisions in the immediate future, including the formulation of the Fiscal Year 1986 budget. Therefore, a major focus of this report is an assessment of the alternative air interdiction assets that could be considered for inclusion in the FY 1986 budget.

Due to the limited time period available, it was recognized that SRI could not conduct any large, independent data-gathering effort as a part of this study. Rather, SRI would rely mainly on data currently available from the several Federal agencies involved in this effort, as well as various studies and information from the private sector.

Techniques and data used in an earlier study by SRI (1978-1980) had provided an assessment of the nature and magnitude of the smuggling threat to the United States for the 1976-1978 period, with emphasis on the air threat across the Southern border. The same techniques were applicable now, but emphasis would be placed on determining the need for new assets required to cope with smuggling.

In conducting this study we at SRI have had to rely on data that are frequently in conflict, especially with respect to numbers and sizes of drug seizures. Other data are often missing or incomplete. We have made independent judgments concerning the utility and validity of the data. In general, our approach has been to utilize these data wherever possible to generate the requested analyses. However, it is our firm conviction that the Federal government should enhance its data collection and analyses in the area of drug smuggling. Thus, we endorse the recent recommendation in the report issued by the Joint Surveillance Committee of the National Narcotics Border Interdiction System (NNBIS) that a current threat assessment is essential. Further, this assessment should be an ongoing, regular, and statistically sound process that will assist all agencies involved in drug interdiction programs.

Finally, this study seeks to place air interdiction assets in proper perspective. We must keep in mind the other methods (referred to in this report as modes of entry) for bringing illegal drugs into the country--including cars, commercial vessels, private boats, and people. We must also recognize that interdiction is only one of several enforcement strategies in the battle against drug abuse.

II. EXECUTIVE SUMMARY

Purpose

The major purposes of this study are to:

(1) Analyze the adequacy of and make recommendations concerning physical assets to be used in air drug interdiction, and

(2) Recommend appropriate roles and responsibilities of the various agencies involved in air drug interdiction, based on an analysis of these assets.

The study examines alternative assets and configurations as to effectiveness and costs, both short- and long-term. A major emphasis is placed on an analysis of those assets that may affect short-term resource allocation decisions.

Methods

In the three-month period available for this study, we performed the following major tasks.

First, we examined the nature of the drug smuggling problem in a broad perspective, including the review of available data concerning the current smuggling threat to the United States from private aircraft. We applied these data to estimate the number of aircraft utilized and flights undertaken to smuggle illegal drugs into the country.

Second, we briefly examined the overall drug enforcement program in order to place air interdiction alternatives in perspective. We reviewed statistical data concerning the enforcement capabilities across possible modes of entry into the United States. Although we did not conduct detailed on-site examinations of these systems, we relied on the knowledge of certain Federal officials and various management information systems available in the U.S. Customs Service.

Third, we analyzed alternative sets of countersmuggling air assets, including their performance, costs, integration, and availability. To determine the potential effectiveness of these assets, we constructed a limited model that predicts the probability that these assets will detect illegal penetrations across our borders.

Fourth, based on this analysis, we made recommendations concerning future interdiction assets to be acquired by Federal agencies. We attempted to integrate these recommendations with current plans of these agencies.

Fifth, we assessed the roles of the Federal agencies involved in the air detection program. We then applied the analyses concerning the air assets and their configurations to make recommendations concerning the future roles of these agencies.

Throughout these activities, we met and/or spoke with numerous Federal officials involved in the drug enforcement effort, several members of Congress and their staffs, and various representatives of organizations involved in the construction and testing of the potential assets to be employed.

Major Conclusions

Our major conclusions are as follows:

(1) Despite the significant improvements in overall Federal efforts to combat drug smuggling and the resultant growth in seizures and overall performance, the current interdiction assets of the Federal government are insufficient to create an effective deterrent to drug smuggling.

(2) In general, the probability that smuggling activities will be successful remains relatively high across the potential modes of entry into the country.

(3) In particular, current air interdiction assets are insufficient to provide a significant level of deterrent.

(4) Of the potential assets and configurations to be employed in this interdiction effort, the only short-term, proven solution, capable of being implemented in calendar year 1985, is to acquire existing E-2C aircraft from the Department of Defense.

(5) Over the next two to four years, of the potential assets assets and configurations to be employed in the interdiction effort, it is generally true that there is a direct relationship between costs and effectiveness. A detection strategy that relies on the use of mobile air platforms, complemented by state-of-the-art, high-performance airborne radars, appears to be the most cost-beneficial approach over the next 5 years at least. We estimate that the detection capability of such a system would be 4-5 times more effective than current assets. The positive cost-benefit results of this approach are dependent upon being able to acquire existing E-2C aircraft or the successful development of a prototype testbed to place the APS-138 radar in a P-3 airframe.

(6) Keeping in mind that the basic policy choice is one of the overall priority of this effort, land- and sea-based aerostats, when fully developed and tested, combined with the mobile air platforms described earlier, have the potential to increase deterrent capabilities by 6-7 times above current levels.

(7) Over the long term, that is, 1990s and beyond, over-the-horizon radars (OTHR) have the potential to improve significantly the detection of drug smugglers using private aircraft. This DoD net will provide far greater coverage than any of the intermediate term configurations that we have described. However, flexible coverage of the type recommended in this report will be a necessary complement to the OTHR systems.

(8) Current interceptor, tracker, and apprehension aircraft are not sufficient in number to provide the comprehensive interdiction program that will be possible through the increased detection capabilities.

Major Recommendations

(1) Federal enforcement policy should attempt to build equivalent levels of deterrent across the various modes for bringing illegal drugs into the country.

(2) The immediate overall plans to enhance air deterrent capabilities basically should continue as planned, with the modifications described in recommendation (3).

(3) The Federal government should:

(a) Move immediately to utilize the AN/APS 125 or AN/APS-138 radar in a proven air frame dedicated to drug detection functions. This can be accomplished by either (a) obtaining U.S. Navy E-2C aircraft with with their existing APS-125 or APS-138 radars and converting them to countersmuggling operations, including extra fuel tanks, or (b) installing and evaluating an APS-125 or APS-138 radar in a P-3 airframe. If either of these options is not feasible, we should proceed to (b) and (c).

(b) Test CHET aircraft, planned to be acquired in FY 1985, in a detection role. These aircraft should be equipped, as quickly as possible, with the APG-68 radar. We would recommend comparing test performance of the CHET against performance of the P-3A aircraft and the installed APG-63.

(c) Acquire additional CHET aircraft or P-3 aircraft depending upon test performance results.

(d) Conduct various tests of other assets, including balloon-based systems and OTHR, with the potential for being utilized in the countersmuggling effort.

(4) Additional interceptor/tracker and apprehension aircraft should be acquired to support the enhanced detection capabilities. We recommend consideration of the following:

(a) 3 CHET in addition to the 6 CHET being purchased in FY 1985.

(b) Appropriate sensors for existing 5 King-Air aircraft.

(c) Appropriate sensors for 6 existing C-12.

(d) Additional Blackhawk helicopters for a total of 14-16 helicopters available to Customs.

(5) To accomplish the above recommendations we suggest that incremental funding, above the base in FY 1985, of approximately $50 million be provided for acquisition/development costs, as well as up to $15 million for operational costs to support the plans outlined above. Additional funds will depend upon performance results and some subsequent policy consideration of the overall level of detection required.

These specific amounts should be verified by the operational organizations involved. All acquisition/development costs should be available on a multi-year basis.

(6) For the next several years, the U.S. Customs Service should maintain primary responsibility for the detection, interception, and apprehension of smuggling aircraft crossing our borders. This role should be supplemented by slightly increased support from the Department of Defense, particularly until additional detection capabilities are available. In addition, the Federal government should investigate whether additional detection support from the U.S. Coast Guard is feasible, including the use of air-to-air radar on aerostats, air-to-air radar on the C-130 aircraft to detect aircraft targets of opportunity, and enhanced surface-to-air radars aboard Coast Guard vessels to act as an aircraft deterrent while the vessels are on routine patrol.

(7) Over the longer-term, the 1990s and beyond, the Federal government should consider having the Department of Defense assume an expanded role in the detection process as a complement to its military readiness mission, based in part on the deployment of operational DoD OTHR systems.

III. NATURE OF THE PROBLEM

It is important to recognize the nature of the threat which the Federal law enforcement community is facing in the area of drug interdiction. While some less sophisticated individuals and organizations are engaged in drug trafficking, the overwhelming majority of the groups involve members that are highly intelligent and well organized. They are well financed and have sufficient financial resources to thwart or at least hamper law enforcement efforts. Drug smugglers are highly aware of enforcement efforts and practices, rely on informants, and have the financial resources required to gather critical intelligence about law enforcement efforts. The economic returns of drug smuggling are considerable for all those involved.

A. Flexibility of Drug Threat

Drug smugglers have highly flexible operations; they can easily shift resources and modes of entry to attempt to outwit law enforcement efforts. As a result, a truly balanced law enforcement approach, one that takes into account the long-term need to build comparable deterrents across all modes of entry, is required.

Considerable experience within the law enforcement community supports this argument. Conversations with numerous Federal officials indicate that a significant number of detections occurred when airborne radars were employed to monitor the Puerto Rican coast and approaches to the Windward Passage, as well as during initial use of E-2C flights from the Department of Defense (DoD). More recently, however, results have been less dramatic.

Most officials recognize that smugglers can make simple adjustments such as different flight patterns and the greater use of marine vessels. Furthermore, as confirmed by every Federal agency involved in this effort, new detection capabilities--ranging from additional aerostat utilization by the U.S. Coast Guard (USCG) to the use of additional technologies by the Immigration and Naturalization Service (INS)--result at first in significant numbers of seizures and arrests, only to be followed by fairly rapid declines in effectiveness.

The successful detection and apprehension of smugglers on a consistent basis leads to changes in smuggling approach routes and smuggler operating modes. For example, private aircraft have been intercepted in New York, a region not previously known to be used for smuggling by single-engine aircraft. An aircraft-only problem has expanded into a combination aircraft and small-boat problem in the Miami area. Thus, an assessment of assets, present or future, must consider the capabilities required to adapt to changing methods of operation.

The recent consolidated report by the Joint Surveillance

Committee of the National Narcotics Border Interdiction System noted that "the volume of controlled substances and the options available are considerable." Although it is also true that the smuggling operations are limited and channeled somewhat by the nature of the substances and their origin, there is a wide variation among the modes utlized:

- Heroin enters the country primarily via commercial air passengers, air cargo, maritime commercial cargo, and land vehicles from Mexico.
- Marijuana is smuggled into the United States by every conceivable means, with the major traffickers relying on general aviation aircraft and non-commercial maritime vessels.
- Cocaine is also smuggled through all modes of entry, including general aviation aircraft, commercial air passengers, air cargo, non-commercial maritime vessels, and land vehicles.

B. Results of Efforts to Date

According to figures provided by the Federal government, Federal agencies have made considerable progress in the last several years in strengthening drug interdiction capabilities. Federal agencies have catalogued significant increases in seizures between the period 1977 to 1983.

According to DEA information (see Table III-1), between calendar years 1979 and 1983 annual seizures have increased as follows: for marijuana by 324,000 lbs., or 22%; for cocaine by 17,000 lbs., or 648%; and for heroin by 253 lbs., or 62%.

Despite these major improvements, government figures strongly suggest that the current physical and personnel assets of the Federal government do not constitute a sufficient deterrent to drug smuggling. Indeed, these government data contend that relatively small percentages of illegal drugs smuggled into the country are being seized--heroin (8%), cocaine (16%), and marijuana (11%).

Figures III-1 through III-3 show current government estimates of drugs being smuggled into the country that are seized.

Admittedly, substantial problems exist with the data employed to generate these estimates. The Administration does not publish official seizure estimates because of the different systems employed by the Federal agencies in providing seizure amounts, although DEA has recently been tasked with developing a common system for this purpose. Furthermore, threat data are generated from a system that primarily examines consumption levels and amounts of seizures. Such a system would not accurately reflect a situation where the threat, defined in terms of goods being smuggled into the country, varies directly with law enforcement successes. That is, given the large supplies of

Table III-1

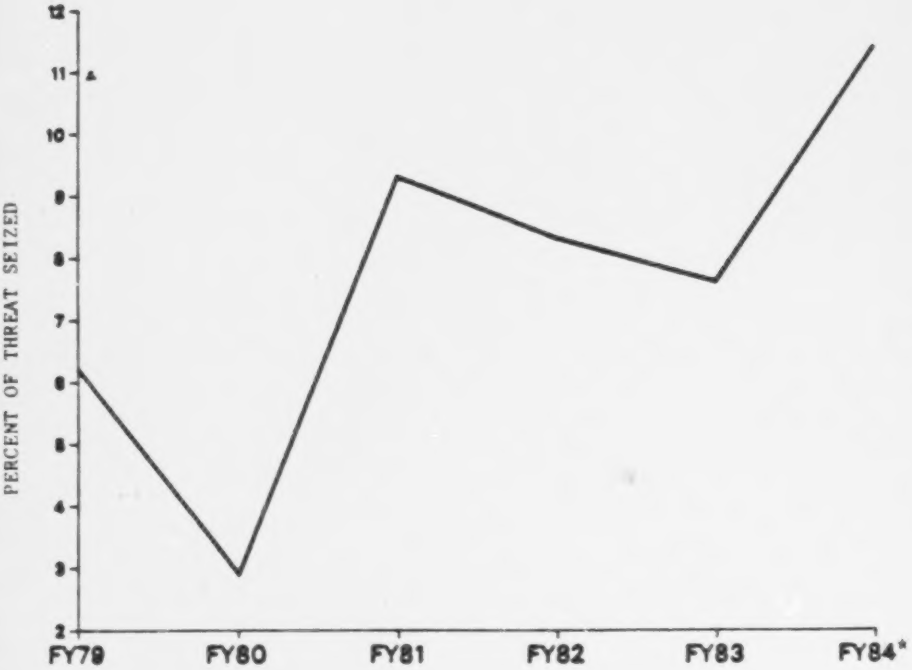
FEDERAL DRUG SEIZURES[a]

	1979	1980	1981	1982	1983	1984[b]
Marijuana (thousands of pounds)	1,471	1,594	1,935	2,772	1,795	1,998
Cocaine (pounds)	2,621	7,650	4,352	12,425	19,619	10,442
Other dangerous drugs (millions of dosage units)	29	36	105	12	20	6
Heroin (pounds)	409	507	333	603	662	502

[a] By calendar year.

[b] Through June 1984 only.

Source: U.S. Drug Enforcement Administration. These numbers represent comprehensive estimates of total federal seizures. DEA acknowledges that there may be particular seizures not reflected in these totals. In addition, individual agency statistics on seizures may differ from the consolidated DEA amounts.

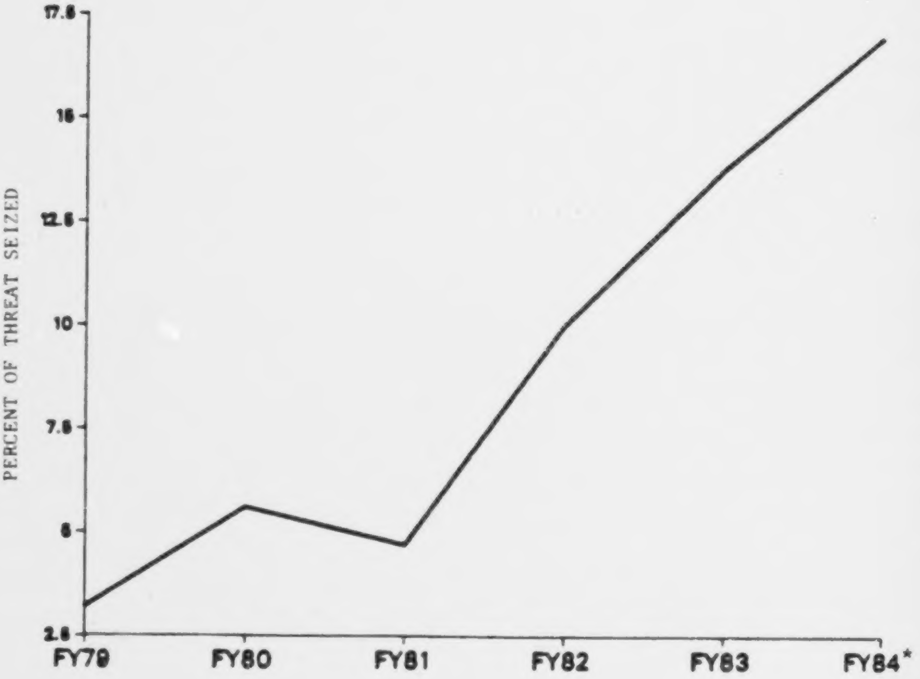


*Projected through the end of FY 1984

	FY79	FY80	FY81	FY82	FY83	FY84
Pounds (millions)						
Seized	1.6	0.8	2.4	2.4	2.3	3.5
Threat	26.0	27.7	25.8	29.0	30.4	30.6
Percent of threat seized	6.2%	2.9%	9.3%	8.3%	7.6%	11.4%

Source: U.S. Drug Enforcement Administration. DEA acknowledge that these estimates may be incomplete and may differ from individual agency estimates.

FIGURE III-1 MARIJUANA: SEIZURES VERSUS THREAT

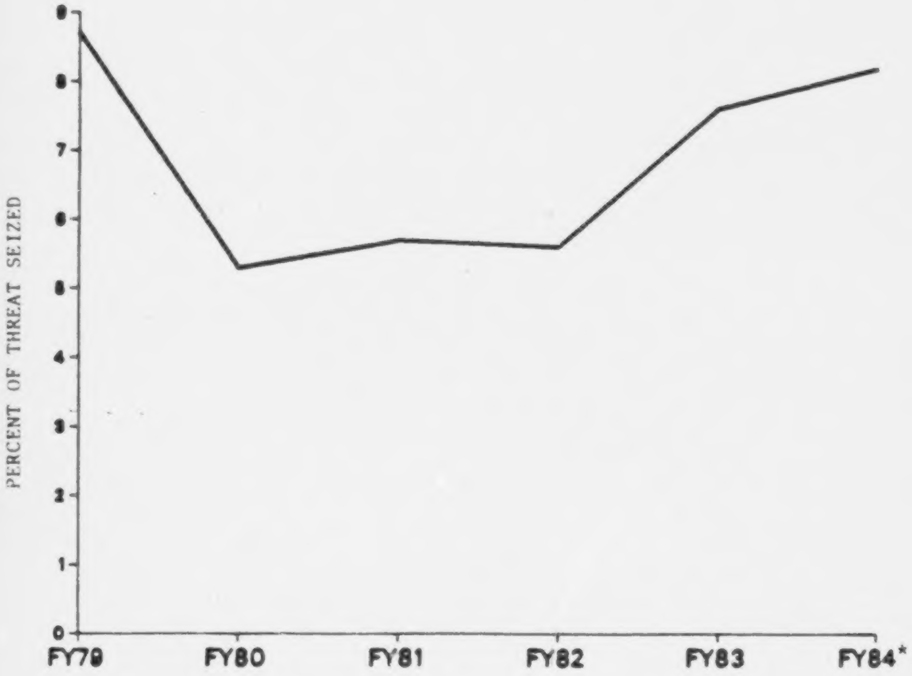


*Projected through the end of FY 1984.

	FY79	FY80	FY81	FY82	FY83	FY84
Pounds (000s)						
Seized	2.2	5.4	4.1	10.9	16.9	21.2
Threat	69.4	96.8	88.0	108.9	122.1	125.0
Percent of threat seized	3.2%	5.6%	4.7%	10.0%	13.8%	16.9%

Source: U.S. Drug Enforcement Administration. DEA acknowledges that these estimates may be incomplete and may differ from individual agency estimates.

FIGURE III-2 COCAINE: SEIZURES VERSUS THREAT



*Projected through the end of FY 1984.

	FY79	FY80	FY81	FY82	FY83	FY84
Pounds (00s)						
Seized	7.0	4.3	4.6	5.1	6.8	7.4
Threat	80.1	80.7	80.6	90.1	90.1	90.1
Percent of threat seized	8.7%	5.3%	5.7%	5.7%	7.5%	8.2%

Source: U.S. Drug Enforcement Administration. DEA acknowledges that these estimates may be incomplete and may differ from individual agency estimates.

FIGURE III-3 HEROIN: SEIZURES VERSUS THREAT

available drugs, it may well be that sufficient amounts are shipped to meet supply demands, taking into account the successes of law enforcement efforts. Even with the limitations in the quality of the data, the relatively low percentage of drugs seized indicates the limited successes of interdiction programs to date.

C. Prices of Drugs

Government statistics suggest that the retail price of major drugs has not fluctuated significantly during the last several years, despite the recent successes in interdiction efforts.

Table III-2 provides government statistics concerning retail and wholesale prices for three major drugs--cocaine, heroin, and marijuana--over the last several years. Although there are severe regional variations in these prices, the general trend is that prices have remained relatively stable. Furthermore, when inflation is considered, retail and wholesale prices have declined in the last several years (see Table III-3). Heroin and marijuana prices have declined by 25% since 1980, while cocaine prices have dropped by over 40%. This phenomena may well reflect the price structure for drug smuggling and the large supplies available overseas.

Rather than measuring the effects of enforcement efforts on price structure, a more useful goal for the enforcement effort might be constructed in terms of arrest and imprisonment. A sufficient deterrent would create a probability of detection such that smugglers would face likely arrest and imprisonment following "several" attempts to bring illegal drugs into the country. Many law enforcement officials believe that the Federal government would have to increase its seizure levels beyond the 20% of threat range to obtain such an outcome.

D. Air Detection Assets and Threat

Assuming the above array of Federally generated threat estimates are accurate, (and SRI, as stated, has done no independent validation), it is evident that, although considerable progress has been made by Federal agencies in the area of air interdiction, current assets are insufficient to constitute a significant threat to drug smuggling. What SRI can clearly attest, from its own investigation, is that the United States lacks sufficient detection assets to cover the U.S. air frontiers.

This gap in coverage exists because the U.S. does not have a detection system designed for the control of drug smuggling by general aviation aircraft across its borders. We rely on a combination of Federal Aviation Administration (FAA) and DoD radars designed for other purposes, with the recognized lack of specificity in coverage for the "typical" drug smuggler. The FAA is largely concerned with flights above 5,000 feet, and DoD has focused on aircraft flying at speeds greater than 180 knots. As a result, there is a large gap in covering low-altitude, slow-flying general aviation aircraft.

Table III-2

RETAIL AND WHOLESALE PRICES OF ILLEGAL DRUGS
(Nominal Dollars)

	1980	1981	1982	1983	1984[c]
Marijuana[a]					
Retail (per ounce)	$35-$60	$35-$60	$30-$40	$50-$65	$35-$50[d]
Wholesale (per pound)	$600	$600	$350-$500	$350-$600	$350-$700
Cocaine[b]					
Retail (per gram)	$333-$400	$333-$400	$285-$333	$215-$285	$215-$285
Wholesale (per kilogram)	$55,000-$65,000	$55,000-$65,000	$45,000-$60,000	$30,000-$50,000	$40,000-$50,000
Heroin					
Retail (per gram)	$50	$50	$50	$50	$50
Wholesale (per kilogram)	$225,000	$225,000	$200,000	$165,000-$200,000	$140,000-$285,000

[a] Figures are for commercial Colombian marijuana.

[b] Prices in terms of undiluted product. Cocaine has been reported as $100 per gram for the past five years with the retail purity increasing from 25 percent in 1980 to 35 percent in 1984. The prices quoted here have been adjusted to reflect the cost of a gram of pure cocaine.

[c] September 1984 national averages.

[d] DEA indicates that these prices reflect a temporary market surplus, with prices anticipated to rise in the near future.

Source: U.S. Drug Enforcement Administration.

Table III-3

RETAIL AND WHOLESALE PRICES OF ILLEGAL DRUGS
(Constant 1980 Dollars)

	1980	1981	1982	1983	1984[c]
Marijuana[a]					
Retail (per ounce)	\$35-\$60	\$31-\$54	\$25-\$33	\$40-\$51	\$26-\$37[d]
Wholesale (per pound)	\$600	\$538	\$290-\$414	\$277-\$475	\$262-\$524
Cocaine[b]					
Retail (per gram)	\$333-\$400	\$299-\$359	\$236-\$276	\$170-\$225	\$161-\$213
Wholesale (per kilogram)	\$55,000- \$65,000	\$49,330- \$58,300	\$37,290- \$49,720	\$23,730- \$39,550	\$29,950- \$37,440
Heroin					
Retail (per gram)	\$50	\$45	\$41	\$40	\$37
Wholesale (per kilogram)	\$225,000	\$201,000	\$165,720	\$130,500- \$158,180	\$104,830- \$213,000

[a] Figures are for commercial Colombian marijuana.

[b] Prices in terms of undiluted product. Cocaine has been reported as \$100 per gram for the past five years with the retail purity increasing from 25 percent in 1980 to 35 percent in 1984. The prices quoted here have been adjusted to reflect the cost of a gram of pure cocaine.

[c] September 1984 national averages.

[d] DEA indicates that these prices reflect a temporary market surplus, with prices anticipated to rise in the near future.

Source: U.S. Drug Enforcement Administration.

Other radars are airport-terminal based, having short range and good low altitude detection capability, but lacking any meaningful network access, and cover relatively small areas.

There are clearly preferred patterns and major avenues of drug smuggling by air. Federal agencies have made progress in identifying and targeting resources against these "choke points," although not in tying them off completely. An illustration of these "choke points" is shown in Figure III-4, which shows smuggling flight paths at each end of Cuba.

We estimate that between 2,500-3,300 aircraft are currently involved in smuggling illegal drugs into the country. We have developed this estimate by using a multiple record system methodology that takes into account smuggling-related thefts, numbers of crashes, stolen aircraft that crash, numbers of lookouts, aircraft on lookout that crashed, aircraft seizures, and aircraft on lookout that were seized. Tables III-4 through III-6 provide these data.

These estimates must be considered as approximations, as we have not reviewed the raw El Paso Intelligence Center (EPIC) data upon which the 1980-1983 numbers are based. However, as the tables indicate, the large increases in the number of lookouts, smuggling-related accidents, and aircraft seized all point to an increase in the air threat.

Because of the lack of data we can make no firm estimate of the total number of flights made by these aircraft. Based on our earlier work in 1980 and on recent views that loads are heavier but fewer, we can assume that each aircraft makes about 3-5 flights per year, in which case we would have a "seizure probability" of between 1 in 20 and 1 in 40, based on 374 aircraft seizures in 1983.

Current government estimates are that 6.6 million lbs. of marijuana are smuggled into the United States via aircraft, with the overwhelming majority of that amount being smuggled primarily by private aircraft, as opposed to commercial. This amount represents approximately 25% of all marijuana being smuggled into the country at this time, with the overwhelming majority of marijuana being smuggled by sea aboard non-commercial ships or boats.

For cocaine, Federal estimates are that 103,000 lbs. are brought into the United States via aircraft, with the majority of that amount being brought through general aviation aircraft. In contrast with marijuana, the air mode is currently used for shipment of over 75% of the cocaine traffic, although there is a general recognition that traffic by sea is increasing.

E. Summary

The low seizure rates advanced by Federal estimates support the position that the current drug interdiction assets of the Federal government are insufficient, and do not provide a reasonable deterrent

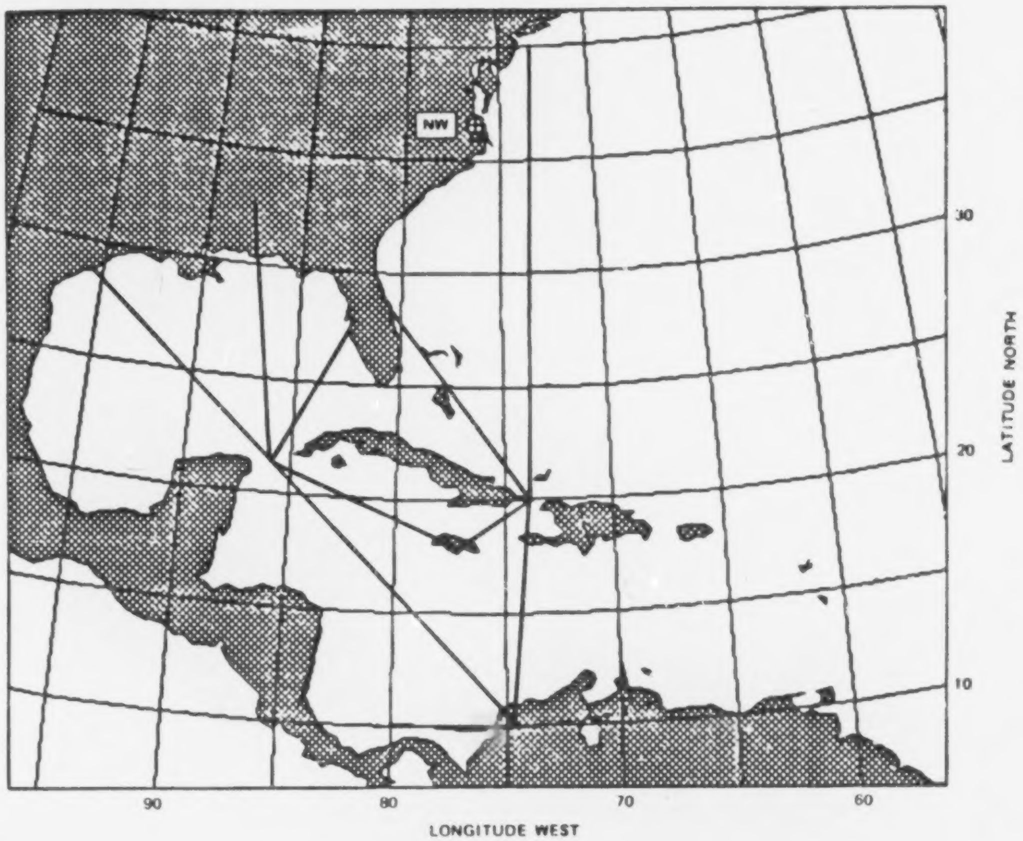

NW
30
20
10
LATITUDE NORTH
90
80
70
60
LONGITUDE WEST

FIGURE III-4 SMUGGLING FLIGHT PATHS ILLUSTRATING CHOKE POINTS AT EACH END OF CUBA

Table III-4

PROJECTED NUMBER OF SMUGGLING AIRCRAFT
BASED ON THEFTS AND CRASHES

Data				
Year	Smuggling-Related Thefts	Number of Crashes	Stolen Aircraft that Crash	Projected Number of Smuggling Aircraft
1976	44	76	5	669
1977	66	102	11	612
1978	55	114	6	1,045
1979	--	186	--	--
1980	133	211	11	2,551
1981	86	153	11	1,196
1982	67	127	7	1,215
1983	65	149	3	3,228

Table III-5

PROJECTED NUMBER OF SMUGGLING AIRCRAFT
BASED ON LOOKOUTS AND CRASHES

Data				
Period	Number of Lookouts	Number of Crashes	Aircraft on Lookout that Crashed	Projected Number of Smuggling Aircraft
1976	134	75	18	558
1977	116	102	15	789
1978	180	114	28	773
1979	--	--	--	--
1980	1,051	211	72	3,080
1981	809	153	53	2,335
1982	991	127	47	2,677
1983	891	149	53	2,504

Table III-6

PROJECTED NUMBER OF SMUGGLING AIRCRAFT
BASED ON LOOKOUTS AND SEIZURES

Data				
Year	Number of Lookouts	Aircraft Seizures	Aircraft on Lookout that were Seized	Projected Number of Smuggling Aircraft
1976	134	132	21	842
1977	116	124	17	846
1978	180	111	23	868
1979	--	--	--	--
1980	1,051	426	124	3,611
1981	809	396	113	2,835
1982	991	314	100	3,112
1983	891	374	116	2,872

to drug smuggling. Federal estimates strongly suggest that despite the recent successes of law enforcement efforts against this overall threat, current seizures represent relatively small proportions of the total threat. Partially as a result, illicit drug activity continues to be a major problem, with its negative impact on the economic, political, and social well-being of the nation.

Clearly a major drug smuggling threat to the United States is posed by private general aviation aircraft, and current air interdiction assets, although greater than those available several years ago, are inadequate to constitute a significant deterrent to that threat. In addition, smuggling operations are highly flexible, requiring a truly flexible interdiction program.

IV. OVERALL DRUG ENFORCEMENT PROGRAM--A CONTEXT IN WHICH TO REVIEW AIR INTERDICTION ASSETS

As we review the alternatives available for air interdiction, it is important to understand the major strategies of the Federal program to attack drug abuse.

Law enforcement is a component of the overall Federal effort against drug abuse. The Administration's plan requires an effective program in: (1) drug abuse prevention through awareness, education, and action; (2) drug law enforcement; (3) international cooperation to control narcotics; (4) medical detoxification and treatment; and (5) research directed at causes, treatment, and understanding. Current unofficial estimates provided by the Office of Drug Abuse Policy are that the Federal government spends approximately $245 million for drug abuse prevention and treatment programs. For Federal drug law enforcement, approximately $1.2 billion is spent.

Within the drug law enforcement effort, many separate strategies and resource levels are being brought to bear on the problem. These strategies include reducing foreign crop production; interdicting drugs being shipped into the country; attacking drug distributors and wholesalers through a wide variety of programs, including financial and tax investigations; and assisting state and local agencies in their efforts to control domestic production and local drug markets.

A major effort in the area of drug law enforcement is the President's Organized Crime Drug Enforcement (OCDE) Task Forces. This effort is targeted at large-scale drug trafficking organizations. Table IV-1 provides data from the Department of Justice concerning the efforts of these task forces.

The OCDE Task Forces were initiated in the Spring of 1983 and have been fully operational for 14 months. Recently, a 13th Task Force was added to the original 12. These Task Forces include participation by a number of Federal agencies, including DEA, FBI, U.S. Customs, IRS, ATF, and the U.S. Marshal Service. Two sets of figures in Table IV-1 are especially critical in assessing the performance of OCDE Task Forces. The number of defendants charged with Racketeer Influence and Corrupt Organizations (RICO) Act violations indicates individuals whose racketeer businesses will potentially be seized by the Federal government. The number of individuals charged with violations of the Continuing Criminal Enterprise (CCE) statute indicates how many high level drug dealers will potentially be required to forfeit all assets acquired through criminal enterprises. Both the RICO Act and the CCE statute allow the Federal government to impose stricter penalties than otherwise possible.

Table IV-1

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES STATISTICS AS OF 5 SEPTEMBER 1984

Region	Number of Task Force Cases Initiated	Number of Cases in Which Indictments Returned	Number of Indictments Returned	Number of Defendants Indicted	Number of Defendants Charged with RICO[a]	Number of Defendants Charged with CCE[b]	Number of Defendants Charged w/ Title 26 Violations[c]	Number of Defendants Charged w/ Title 31 Violations[d]	Number of Defendants Convicted
Great Lakes	58	16	120	307	35	13	64	12	146
Gulf Coast	63	28	67	354	38	15	12	0	108
L.A.-Nevada	43	19	24	126	2	4	18	7	43
Mid-Atlantic	79	33	155	347	40	25	12	1	90
Mountain States	43	11	37	148	0	2	0	3	70
New England	56	22	52	203	5	9	3	1	49
N.Y.-N.J.	46	27	40	373	19	40	1	4	141
North Central	61	32	52	280	30	15	31	6	147
Northwest	53	23	46	135	0	8	4	3	48
South Central	68	26	59	212	3	7	3	0	206
Southeast	48	22	65	359	34	24	14	17	90
Southwest	31	14	34	215	38	5	34	24	19
Fla.-Northern Dis.	25	10	16	44	9	7	9	0	27
Fla.-Middle Dis.	12	10	13	93	56	2	1	4	19
Totals	686	293	780	3,196	309	,176	206	82	1,203

[a] The Racketeer Influence and Corrupt Organizations (RICO) Act allows the federal government to seize businesses of individuals involved in racketeer activities and invoke strict civil penalties.

[b] COE refers to the Continuing Criminal Enterprise statute, which requires individuals to forfeit all assets acquired through criminal enterprises.

[c] Title 26 violations involve tax evasion.

[d] Title 31 violations pertain to the Currency and Foreign Transactions Reporting Act (the Bank Secrecy Act), which requires the reporting of foreign bank accounts and various record-keeping procedures used by financial institutions subject to U.S. jurisdiction. Specifically, the Act requires the reporting of domestic cash transactions greater than $10,000, and cash transactions involving money entering or leaving the country in amounts greater than $5,000.

Source: U.S. Department of Justice.

Operation Greenback, a specific multi-agency task force focused on the financial operations of multinational drug trafficking organizations, has resulted in many cases of Title 31 violations. These investigations have destroyed or targeted 16 major money-laundering organizations.

Among these enforcement efforts, effective interdiction is especially critical. Narcotics traffickers pose a direct threat to the geopolitical well-being of the United States and its economic welfare. As stated in the recent NNBIS report, "Controlling the land borders and the sea and air frontiers is a primary responsibility of a sovereign state. Failure to exercise this responsibility invites a variety of adverse activities with very high social, political, and economic costs."

U.S. efforts to combat the drug trade serve to promote greater control over our borders. This control is important for a number of other reasons. Effective border control programs hinder illegal migration, stave off terrorist threats, and enhance military preparedness. An effective drug interdiction program, then, promotes U.S. security in terms of drug abuse in particular and border protection in general.

A. Analysis of Alternative Drug Smuggling Modes

Various data compiled by responsible Federal agencies indicate that current enforcement capabilities and efforts across the various modes of drug smuggling are extremely limited. Given the flexibility possessed by the drug smuggler, these data strongly suggest that overemphasizing the air interdiction programs, while ignoring the threat posed by other modes of smuggling, would be inappropriate enforcement policy.

Table IV-2 provides seizure data by mode, taken from available data collected by the Drug Enforcement Administration. These data indicate that seizures across modes are relatively small, with no interdiction efforts in a particular mode appearing to be highly successful.

Table IV-3 summarizes the data concerning the percentages of passengers, cargo, and equipment examined by the U.S. Customs Service (USCS). In Appendix A, we elaborate on the data used to construct these percentages. Although SRI notes that critical Federal data are frequently unavailable concerning these modes of entry, several conclusions flow from the Customs' data:

- The United States examines only 3.8% of the containerized cargo coming into the country.
- The United States examines less than two-tenths of one percent of the air passengers coming into the country.
- The United States examines less than four-tenths of one percent of the vehicles entering the country legally by land.

Table IV-2

ESTIMATED SEIZURES BY MODE CALENDAR YEAR 1983

	Marijuana		Cocaine		Heroin	
	No.	Lbs.	No.	Lbs.	No.	Lbs.
Commercial air passengers[a]	1,641	15,400	436	1,200	107	400
Commercial air cargo	102	10,700	69	2,600	7	30
Non-commercial air	145	291,000	59	21,000	--	insig.
Commercial vessel[b]	108	146,800	37	3,800	6	900
Non-commercial vessel	422	3,138,000	22	5,200	--	insig.
Land[c]	1,030	61,000	153	300	91	100
Total lbs.		3,662,900		34,100		1,430

[a] Commercial air passenger seizures were from luggage, a passenger's body, or from another container such as liquor cartons or tin cans.

[b] Ninety-nine percent of marijuana seizures and 65 percent of cocaine seizures were from cargo containers. The remaining seizures primarily involved crewmen.

[c] Drugs seized at U.S. borders in Texas, California, Arizona, and New Mexico. Drugs entering by land from Canada were not included in the total; these quantities were assumed to be insignificant.

Source: U.S. Drug Enforcement Administration's EPIC Special Report, "Drug Movement Indicators/Profile CY 1983," Note that total seizures reflected in this report differ from those shown in Table II-1. Estimates shown in this table include seizures made by state and local officials.

Table IV-3

PERCENTAGE OF INCOMING TRAFFIC SEARCHED BY U.S. CUSTOMS SERVICE[a]
Calendar Year 1983

Mode	Percent Searched	Percent Undergoing Comprehensive Drug Search[b]
Air		
Commercial air passengers	0.14	0.14[c]
Private aircraft (legal entrance)	74.40	<0.10
Cargo	10.15	10.15
Sea		
Passengers	0.10	0.10
Cargo	5.70	5.70
Private vessel (legal entrance)	9.20	<0.10[d]
Other vessel[e]	8.00	--
Land		
Pedestrians	0.05	0.15
Vehicles	6.10	0.07

[a] Appendix A provides additional detail.

[b] A comprehensive search is defined as that required to uncover narcotics if the smuggler is using the most sophisticated techniques currently known, such as hidden compartments in vessels and vehicles. It should be noted that comprehensive, intrusive searches of vehicles and persons normally occur because of a strong suspicion of the presence of contraband, based on prior intelligence or a strong reaction from a dog search team. Therefore, the percent of comprehensive searches is more a measure of the presence of intelligence than an indicator of a search strategy.

[c] When an individual is searched, the Customs inspector is prepared to search clothing and body cavities.

[d] Current law requires only that private vessels report to Customs within 24 hours of arrival. Since this allows sufficient time to offload contraband, Customs personnel believe that intrusive seizures of legally entering private vessels are unlikely to be fruitful and, therefore, perform few.

[e] Other vessels include commercial, ferries, military, and public vessels.

Federal agencies use various selectivity procedures in order to concentrate resources on high risk cargo and passengers. However, the sophisticated drug-smuggling population is frequently knowledgable of these procedures.

Most important, drugs hidden in cars, planes, boats, and cargo present severe detection problems even when a search is conducted. Appendix A contains estimates, based on fragmentary Federal data, of the ratios of boats, planes, and cars "disassembled" for drug detection. Obviously, such events occur mostly when prior intelligence is available; the data indicate that such occurrences are extremely rare. The sophisticated smuggler will take the steps necessary to thwart all examination efforts, other than a "disassembly." Customs personnel indicate, for example, that on occasion three and four searches of a vessel are required before drugs are found.

To illustrate the difficulties in drug interdiction in these various modes, we have summarized the Federal data for several specific systems.

In 1983 over 2.9 million containerized cargo units entered the U.S. Of these, only 3.8% received a "100% examination," meaning that an inspector followed the container to its final destination, watched it being unloaded, and then checked the container for hidden contraband. However, each piece in the container was not examined. The remaining 96% of containers underwent a "tailgate exam" in which the door of the container was opened and at least one box was examined to verify the manifest.

For commercial air passengers, of the 22 million passengers entering the United States in 1983, only 0.14% were searched for contraband, including illegal drugs. Of the 224 million vehicle passengers entering the United States, Customs searched 0.03%. Of the 4 million passengers entering the United States through commercial vessels, Customs searched 0.15%.

Of the 89 million vehicles entering the United States across land borders, approximately 6% received a secondary examination. Some unknown portion of these were examined by "CET teams," which include the use of dogs for detection purposes. An estimated 0.075% of the vehicles entering the country were dismantled in some fashion to produce a thoroughly "comprehensive" drug search.

Of non-commercial vessels entering the U.S., Customs searched approximately 9%. Moreover, these searches occurred after the vessel had met the requirement to inform Customs within 24 hours of docking. Virtually no vessel which met this requirement was subsequently found to contain illegal drugs.

With respect to illegal entries across our land borders, the size of the enforcement task, when compared to the resources available, is enormous. The northern frontier of Mexico stretches 1,300 miles from the Pacific Ocean on the West Coast, through the states of California, Arizona, New Mexico, and Texas.

Current conservative estimates are that one million individuals enter the country illegally from Mexico each year. More pessimistic estimates would place this number at more than three million. These estimates compare with a figure of approximately 1 million individuals who were apprehended during attempts to cross the border illegally.

Assuming the accuracy of the data provided, the following general conclusions can be appropriately drawn:

- Interdiction probabilities, especially in the absence of tactical intelligence, remain relatively low in all modes of entry. Therefore, enhancing interdiction capabilities in one area, while ignoring the other assets, will serve to drive smugglers to less threatening modes of entry.
- Creation of an air interdiction program that is considerably greater than the one employed at this time will increase the probabilities of seizures in this area, but will also force smugglers into modes of entry where current detection capabilities are severely limited--private vessels, commercial cargo, land border crossings by vehicles, and passengers on commercial aircraft and boats. A need exists to build credible deterrent levels across all modes of entry.

Interdiction efforts against smuggling within these various modes must be balanced against other important missions, including expediting the flow of cargo and passengers into the country. Moreover, we must maximize cost effectiveness and minimize Federal expenditures.

The effectiveness of our selectivity systems plays a critical role in concentrating resources on high risk traffic. These systems are dependent upon tactical and strategic intelligence. In general, however, law enforcement personnel engaged in this effort are critical of the amounts and quality of intelligence available to them.

B. Role of Intelligence

Tactical intelligence, defined as the provision of information identifying specific traffickers and their methods of operation, is a critical component of the overall interdiction effort.

We have not had the opportunity to review the performance and overall utility of the intelligence system, except as it relates to the performance of air interdiction assets in Miami. These results, discussed in greater detail later, indicate that a very small percentage (8%) of the detections are based on intelligence, which we defined in broad terms. The great majority of air detections and seizures in Miami are based on "cold hits."

In numerous discussions with officials from several Federal agencies, we were informed that intelligence systems were providing insufficient information to contribute significantly to effective interdiction programs.

Statistical information available concerning intelligence can be found by reviewing data contained in the Customs CLEAR system. This system is based upon information completed by Customs officials following an arrest or seizure. Officials are asked to indicate whether prior information was utilized in the seizure or arrest.

We are highly suspicious of the utility of these data. It should be noted that Customs recognizes the problems in this, as in any information system, and is taking steps to improve the quality of this data base. In such a system, the definition of "prior information" will vary significantly with each respondent. Nevertheless, the data indicate that intelligence, in some form, is recognized by arresting officials to be a desirable component of successful interdiction.

In that light, Table IV-4, taken from a recent GAO report, analyzes the numbers and percentages of seizures by the Customs Service and Coast Guard based on prior information. The data are further broken down into categories of major and other seizures, with "major" defined as more than 10,000 pounds of marijuana, 10 pounds of cocaine, or 5 pounds of heroin. The results of this review indicate that arresting officials believed intelligence played a role in approximately 55% of the major seizures during the period 1977-1982. In contrast, for other seizures during the same period prior information was utilized in approximately 6.5% of the cases.

We note, however, that these data concerning major seizures are of limited utility for analyzing the air program, because the definition of a major seizure for marijuana exceeds the load capacity of almost all aircraft used for smuggling.

As a part of this study, we examined more recent data from the Customs CLEAR system to determine current trends, as well as to examine the role of intelligence in seizures across the various drug smuggling modes. Table IV-5 shows the results of that analysis.

We observe that:

1. The recent plan by Customs to place personnel overseas in DEA offices to gather intelligence for direct transmission to Customs operations for interdiction purposes receives our wholehearted endorsement.

2. An analysis of the intelligence system should be undertaken to determine its levels of output for drug interdiction purposes. Apparently the intelligence personnel and networks for communicating intelligence are in place. Possible limitations in the quantity and usefulness of intelligence material being transmitted

Table IV-4

ANALYSIS OF CUSTOMS AND COAST GUARD SEIZURES BASED ON PRIOR INFORMATION

(Fiscal Year)

	1977	1978	1979	1980	1981	1982[b]	Total
Major seizures[a]							
Total	198	265	239	244	388	237	1,571
Based on prior information	111	122	145	141	206	141	866
Percent based on prior information	56	46	61	58	53	59	55
Other seizures							
Total	20,337	14,712	12,580	11,340	10,320	6,555	75,844
Based on prior information	910	704	677	854	1,095	703	4,943
Percent based on prior information	4	4	5	8	11	11	6

[a] Seizures of more than 10,000 pounds of marijuana, 10 pounds of cocaine, or 5 pounds of heroin.

[b] Data for the first 8 months (October 1-June 30).

Source: General Accounting Office, "Federal Drug Interdiction Efforts Need Strong Oversight," June 13, 1983. Data based on Customs CLEAR system.

Table IV-5

USE OF PRIOR INFORMATION IN U.S. CUSTOMS SERVICE SEIZURES BY MODES OF CONVEYANCE[a]
Calendar Year 1983

	Marijuana				Cocaine				Heroin			
	Seizures		Amount		Seizures		Amount		Seizures		Amount	
	Number	Percent	Pounds	Percent	Number	Percent	Pounds	Percent	Number	Percent	Pounds	Percent
Commercial vessel												
Prior information	77	45	424	47	9	56	1,203	59	1	50	2	99
No prior information	94	55	482	53	7	44	835	41	1	50	b	1
Non-commercial vessel												
Prior information	138	39	729	67	11	38	832	99	0	--	0	--
No prior information	214	61	353	33	18	62	b	1	0	--	0	--
Commercial air passengers												
Prior information	161	8	4	3	52	10	88	5	28	21	86	28
No prior information	1,749	92	142	97	451	90	1,663	95	106	79	227	72
Commercial air cargo												
Prior information	9	10	b	8	2	9	70	4	1	33	7	33
No prior information	85	90	9	92	21	91	1,762	96	2	67	14	67
Non-commercial aircraft												
Prior information	80	53	73	51	12	63	4,141	58	0	--	0	--
No prior information	71	47	69	49	7	37	3,058	42	0	--	0	--
Land traffic												
Prior information	212	8	150	69	50	12	2,260	98	24	100	44	100
No prior information	2,471	92	68	31	384	88	48	2	0	0	0	0

[a] Amounts are in thousands of pounds.

[b] Less than one.

Source: Data are derived from U.S. Customs CLEAR data and reflect judgments from arresting or seizing officials as to whether prior information was utilized in the seizure. Prior information includes prior DEA information, prior Customs information, a TECS primary query response and other prior information. It should be noted that these data do not represent all Customs' seizures for calendar year 1983; rather, they reflect those seizure reports on which the question about prior information has been answered, either positively or negatively.

through these existing networks is of more concern, and warrants analysis. We recommend that a detailed analysis be conducted of the quantity and quality of these intelligence flows, including the effectiveness of interagency intelligence communications. This analysis should examine both strategic and tactical intelligence.

3. In our judgment, a tactical intelligence system should make intelligence personnel well versed in particular areas directly available to field personnel requiring an experienced assessment of a developing situation. In addition, the ties between operations and intelligence personnel should be tightened to achieve near-real-time assessments that detect changes occurring in smuggling routes and modes.

4. The Federal government should consider introducing a system to produce standardized, comprehensive descriptions of the assets--both human and physical--utilized in all major drug seizures, including the sequence in which those assets were brought to bear on a developing case.

C. Summary

Air drug interdiction strategies must be balanced against: (1) the capabilities of interdiction systems for other modes of entry, (2) other enforcement efforts to control drug trafficking, and (3) the Administration's comprehensive program for controlling drug abuse. An effective air interdiction program will benefit the nation in several ways, including providing greater control of its borders. According to the data generated by Federal agencies, the current probability of interdiction remains relatively low across all modes of entry. It would therefore be inappropriate to create a "solid wall of defense" to combat air smuggling, and thereby serve to force the smuggler to less threatening modes of entry. Rather, a program that attempts to build "reasonable" deterrent levels, comparable across the various modes of entry, would appear to be the more appropriate interdiction strategy.

V. ANALYSIS OF ALTERNATIVE COUNTERSMUGGLING AIR ASSETS

The basic purpose of this section is to review alternative countersmuggling air assets and to provide anticipated results and costs of deploying alternative configurations of assets. Based on these analyses, we will make recommendations concerning future actions involving procurement of countersmuggling assets by the Federal government.

A. Overview

Table V-1 illustrates actual and potential crossovers between existing U.S. radar systems and platforms usable for detection and surveillance of air and surface targets. All platforms are airborne (aircraft or aerostat) except for over-the-horizon radar (OTHR), which is land-based. Fixed-base FAA radar, mobile ground radar, and surface-based marine radar systems are not included here because all are beyond the boundaries of the immediate problem under consideration here--namely, the identification of platforms and radars having sufficient coverage, flexibility, and mobility to be immediately responsive to (1) shifting air and marine smuggling situations or (2) creating sea-based choke points.

Subsequently in this section we develop the 10-year costs and estimate the relative detection capabilities of seven alternative approaches available to the government. It is here, drawing on Table V-1, that we want to establish the trade-off between short- and long-term action plans that the government may choose to consider.

In short, excluding the more costly AWACS, the E-2C aircraft platform with its AN/APS-125 or AN/APS-138 surveillance radar system is the only tested resource immediately available to the government for (1) detecting drug smugglers flying small, slow-moving aircraft over land or sea, and (2) conducting standoff surveillance of marine surface smuggling operations, which may or may not involve air drops. To make effective use of the E-2C asset requires that either (1) the Navy increase by a factor of 10 or more the drug interdiction missions now being flown, and that these missions be flown over wide areas, including choke points well removed from CONUS, or (2) the Customs Service obtain the E-2C as an asset usable in CY 1985.

If the E-2C cannot be made available as a major component of an expanded aircraft detection and surface surveillance program, we estimate that opportunity costs of cocaine seizures foregone will approximate $400 million for CY 1985 (20,000 pounds of additional seizures x $20,000 /lb. wholesale value). Furthermore, smugglers will have the option of continuing to use modes and routes found most favorable to the enhancement of their opportunity costs; smuggling costs and risks increase when smugglers must respond to successful enforcement procedures.

Table V-1

MOST IMMEDIATE RADAR DETECTION ASSETS AND ASSOCIATED PLATFORMS

Radar System	Scan Angle (degrees)	Nominal Range for Customs Targets (nmi)	Targets		Platforms	
			Surface	Air	Actual	Potential
AN/APS-125, or AN/APS-138, or AN/APS-139*	360	150	Yes	Yes	Navy E-2C (operational)	Customs E-2, P-3, C-130, or new airframe
AN/APG-63	120	60	NI	Yes	USAF F-15 (operational) Customs P-3 (evaluation)	
AN/APG-66	120	25	NI	Yes	USAF F-16 (operational) Customs Citation (operational) Customs Aerostat (evaluation of modified 360° AN/APG-66)	CHET
AN/APG-68	120	45	NI	Yes	USAF F-16 (radar in production)	CHET (require modify USCS specifications?) Customs Citation (doubtful, but warrants check)
AN/APS-80	210	20	Yes	No	Navy and Customs P-3	
AN/APS-134 or	210	NI	Yes	No	NI	Customs P-3 (replace existing rear AN/APS-80)
AN/APS-137	210	NI	Yes	No	Navy P-3 at NADC (evaluation)	Customs P-3 (in lieu of AN/APS-134)
AN/TPS-63	360	125	Yes (fast boats)	Yes	Customs Aerostat (evaluation)	
RCA Radar	360	125	No	Yes	Cudjoe Key and Cape Canaveral (operational)	
OTHR	60 or 240	min. 500-max. 1800	Over 70 ft day, 200 ft night	Yes	Experimental systems	

Notes: NI: Information not presently available to confirm demonstrated capability.

To be shown in revision: USCG AIREYE (currently air/surface) and USCG tethered aerostat (currently air/surface).

*AN/APS-139 is improved version of AN/APS-138 (nomenclature change pending).

If neither the Navy nor Customs will be able to fly sufficient E-2C countersmuggling missions in CY 1985 and CY 1986, the E-2C drops to the level of the other approaches becoming available as long-term developments (some of which are already in various phases of evaluation). There the E-2C should be considered as only one of the several available: (1) P-3 aircraft with AN/APG-63 radar (one unit now in evaluation by Customs), (2) P-3 aircraft with AN/APS-138 radar (2 years required to develop and evaluate a test bed installation), (3) aerostats (4 or more years to realize NNBIS configuration), (4) OTHR (2-3 years to achieve Caribbean coverage in joint effort with Air Force, early 1990s for full CONUS coverage, except no coverage of Canada to the north), (5) multiple CHET aircraft with AN/APG-68 radar (15-18 months to accomplish systems integration of new Air Force production radar, including flight tests, and specific tests to demonstrate that reflections from CHET propellers do not adversely affect radar performance), and (6) the E-2C aircraft with its AN/APS-125 or AN/APS-138 radar. The trade-offs among these alternatives, and specific recommendations concerning their selection, are included in this section.

Of these six approaches offered as tentative solutions to the air detection and surface surveillance problem, only platforms carrying the AN/APS-125 or AN/APS-138 radar could accomplish standoff surveillance of marine surface operations. Here new tactics involving integrated Customs air and surface operations, coupled with improved use of intelligence, should lead not only to the recovery of narcotics but also to the apprehension of major parties beyond pilots and crewmembers.

B. Characteristics of Various Air Detection Assets

Table B-1 in Appendix B provides performance levels, estimated costs, and various characteristics of the alternative air detection assets available for use by the Federal government.

We note the following general characteristics of these assets:

1. Airborne radar platforms have demonstrated their operational effectiveness over many years.
2. Individual radar designs typically cannot provide equally effective air-to-air and air-to-surface operating modes; each design under consideration must be checked to determine actual performance in these modes. The AN/APS-125 radar in the E-2C aircraft, which in its latest version is the AN/APS-138 radar, appears--for Customs Service purposes--to be effective in both modes. In contrast, the AN/APS-80 installed in the P-3 aircraft is highly effective as an air-to-surface radar but suffers in performance as an air-to-air radar.

Figures B-1 through B-3 in Appendix B illustrate the anticipated coverage of three OTHR systems. These planned systems constitute the

Air Force's Operational Radar System (ORS) for CONUS: ORS East, West, and South. These systems should become available in the early 1990s. Their architecture is such that they should readily provide access to radar detection and tracking information involving small, slow-flying aircraft operating at any altitude down to the earth's surface. A fourth system, arbitrarily shown by us as being located in Tennessee, is a near-term system (2-3 years) currently receiving consideration within DoD. This system appears subsequently in this section as Alternative 7.

C. Performance of Current Assets

Table V-2 provides an analysis of the contributions of various detection assets utilized by the Miami Air Support Branch in the first half of CY 1983. We examined operations at Miami to determine the roles of intelligence and cold detection and to determine which radar assets were most effective. To date, the Command Duty Officer (CDO) reports for the first six months of 1983 have been analyzed. These reports give a narrative description of every detection that Miami ASB is convinced is a smuggling flight. In most cases the evidence of smuggling is substantial (but not always sufficient for a court case). The CDO reports also give the number of hours each of the primary radar assets was manned. Table V-2 lists detections, hours manned, and detections per 100 hours.

Only 5 "detections" are listed under intelligence here, and all 5 resulted in apprehensions or seizures. In using the term intelligence it should be noted that some of these detections did not involve extensive investigation or centralized record keeping. They were simply a phone call from the FAA or a concerned citizen. The primary use of intelligence at Miami has been in sorting (determining which suspicious radar targets are really smugglers). Sorting is accomplished by checking flight plan data with EPIC for lookouts and TECS for supplementary information. After intercept, tail numbers of suspicious aircraft can be checked against EPIC and TECS files.

Also listed in Table V-2 are estimated operating costs to USCS, and based on this, the cost per detection. Several observations about these numbers should be noted. Even though the Guantanamo radar is a fixed land-based radar, it has a high rate of detections. There are two likely explanations; (1) smugglers do not know about this radar, or (2) the threat is very dense in this area. The radar is less productive than it used to be, and a number of aircraft have been observed skirting along the very southern part of the radar's coverage, indicating that at least a number of smugglers are aware of the use of this radar to detect smugglers. The second explanation tends to support the USCS theory that unfriendly Cuban airspace forms "choke points" at either end of the island.

The E-2C is expensive to operate, but is also one of the few assets that can be deployed to any location in a few hours. It is also very difficult for smugglers to determine its location. In the Miami operations the E-2C has only been flown near CONUS. It is likely that considerably higher detection rates could be obtained by flying the

Table V-2

PERFORMANCE AND ESTIMATED COSTS OF MIAMI DETECTION RADARS

	Detections	Hours Manned	Detections per 100 Hours	Cost per Hour ($)	Cost per Detection ($)
"Intelligence"	5	--	--	--	--
Guantanamo radar	36	942	3.8	100	2,600
Andros radar	4	827	0.5	200	40,000
Cudjoe Key Balloon radar	4	458	0.9	35 700*	3,900 78,000
C3 (FAA radars)	13	1,786	0.7	70	10,000
E-2C	7	126	5.5	2,500	45,000
Other	4	--	--	--	--

*The $35/hr cost is for USCS monitoring a USAF balloon radar. The $700/hr cost is for USCS operating their own balloon radar.

E-2C near the "choke points."

With the exception of the Guantanamo radar, insufficient data are available for meaningful estimates of the number of detections that result in apprehensions. For the Guantanamo radar this averages close to 40% when crashes and foreign seizures are included. This is surprisingly high considering that only data for speed and direction of flight are sent to the interceptor. The smuggler then flies several hundred miles beyond radar coverage before the interceptor attempts an intercept.

Figure V-1 illustrates the cost of operating the Miami ASB as a function of the number of detections. Two assumptions are made here. First, there is a basic $3.6M fixed cost of staffing and maintaining the interceptor/apprehension fleet for 12 hr per day. Second, the number of smugglers per hour is constant for 12 hr per day (small samples of 24 hr-per-day operations have resulted in diminished returns on the number of detections per hour, indicating that the ASB knows the optimum hours in which to operate).

The curve assumes that the most cost effective detection devices are used first. The most cost effective operating point in terms of maximum detections per dollar is to man only the Guantanamo, Cudjoe Key and C3 (multiple FAA radars). However, the number of detections would be limited to about 250. To increase the number of detections above this number, the Andros and E-2C radars must be used.

D. Model of Air Detection Assets

In order to determine the likely outcome of alternative air interdiction configurations, we have constructed--within the short time available--a "model" of limited size and scope.

In brief, the model operates by:

(a) Dividing the U.S. border between approximately San Francisco and New York into 100 equal segments of 40 nautical miles each. The distribution of smugglers by segment is determined by the distance from drug sources, distance from a USCS Air Support Branch, fixed radar coverages, and past observations of smuggling activities.

(b) Basing the probability of a smuggler attempting to penetrate a given segment on a variety of assumptions concerning the smuggler population and the radar configuration being considered (described below).

(c) Applying alternative air detection configurations across the U.S. border, with an emphasis at "choke points" as appropriate.

(d) Limiting performance of radar detection devices over land to take into account differences in terrain,

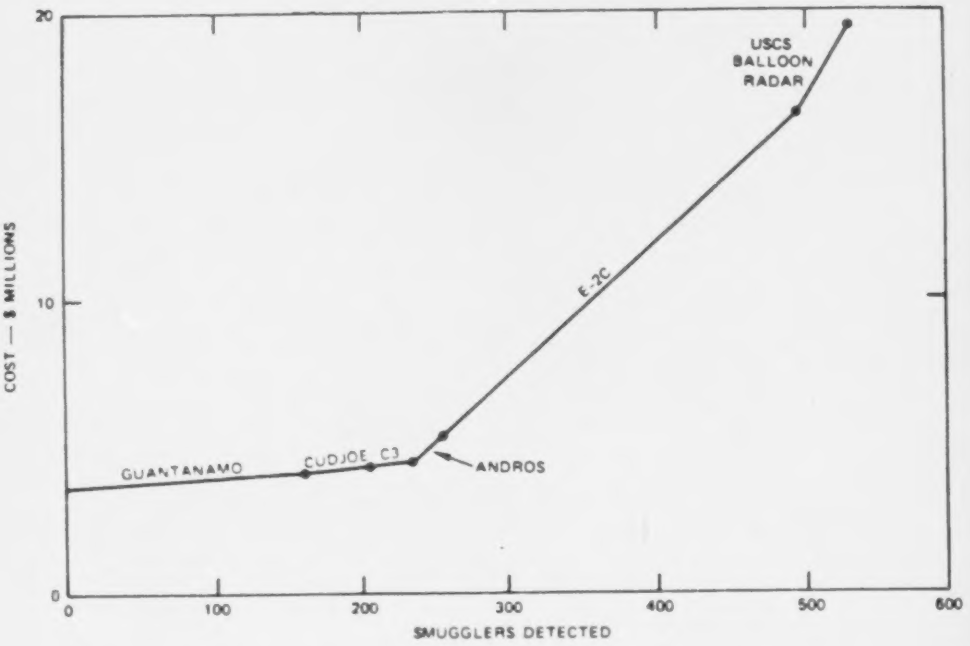


FIGURE V-1 MIAMI COSTS AND DETECTION CAPABILITIES

especially notable in the Southwest.

(e) Applying various factors known about the assets employed in the configuration, including such factors as detection probability.

(f) Yielding detection results against the threat as described.

As described above, the model that we have constructed is based on the following assumptions:

(1) Smugglers

We have divided the air smuggling population into five major classes, applying an equal weight to each class:

(a) Totally Unsophisticated--threat density in each segment is based on historical crash data, minimizing distance from drug sources, avoiding close passage by USCS ASBs;

(b) Partially Unsophisticated--has characteristics of (a) but also avoids FAA radars;

(c) Intelligent--has characteristics of (b) and avoids balloon-based radar systems;

(d) Highly Intelligent--has characteristics of (c) but also uses minimal radar detection devices to avoid X-band radar systems; and

(e) Highly Intelligent and Highly Sophisticated--has characteristics of (d) and also employs more sophisticated radar detection devices, including those necessary to avoid E-2C detections.

(2) Radar Performance

As described earlier, many of the available radars are in development and evaluation, so demonstrated performance against particular intrusions are unavailable. For the purposes of this model, we have used the following levels: Aerostats--25% (includes 35% down time factor), FAA radars--50%; and all other radars--75%. Changes in these assumptions, particularly with respect to balloons, where we have included down time for weather and repair, can be made as performance is demonstrated.

E. Alternative Configurations

The detection asset configurations which we have evaluated include the present situation and several proposed alternatives. These alternatives are intended to reflect what we understand to be major policy choices under consideration. All alternatives are realistic, capable of being implemented within the next 1-4 years, and represent a significant expenditure of resources. It is our judgment that less significant changes to the present assets will not have a significant impact on detection capabilities.

These alternatives, however, have been developed for analytic purposes only. There are numerous alternative configurations, many of which may have operational advantages not covered in this analysis. Further, all assets and their configuration will require operational testing against drug smugglers. Therefore, a cautious, gradual approach to acquiring any increased assets is necessary, and an overall configuration, once selected, should be regarded as providing only "broad guidance" for future Federal action. To guide those immediate decisions, toward the end of this chapter we have provided details concerning the incremental costs and benefits of particular assets, as well as analyses of sub-configurations. Federal agencies, under guidance by NNBIS, will have to determine the "best" operational strategy.

By "present situation," we refer to the air detection assets that are currently in use by, or in support of, the Customs Service. The assets included in the various configurations are listed below:

Configuration #1--Present Situation

- NORAD radars.
- FAA radars.
- Three land-based aerostats at Cudjoe Key, Cape Canaveral, and the Bahamas.
- Guantanamo Bay radar.
- Andros Island USCS radar.
- E-2C and AWACS coverage currently provided by the Navy and Air Force.
- USCS Citations.

Configuration #2 (see Figure V-2)

- Configuration #1.
- Six E-2C aircraft dedicated to drug interdiction or the equivalent time in additional Navy E-2C support missions.

Configuration #3 (see Figure V-3)

- Configuration #1.
- Six P-3A aircraft with APG-63 radar.

Configuration #4 (see Figure V-4)

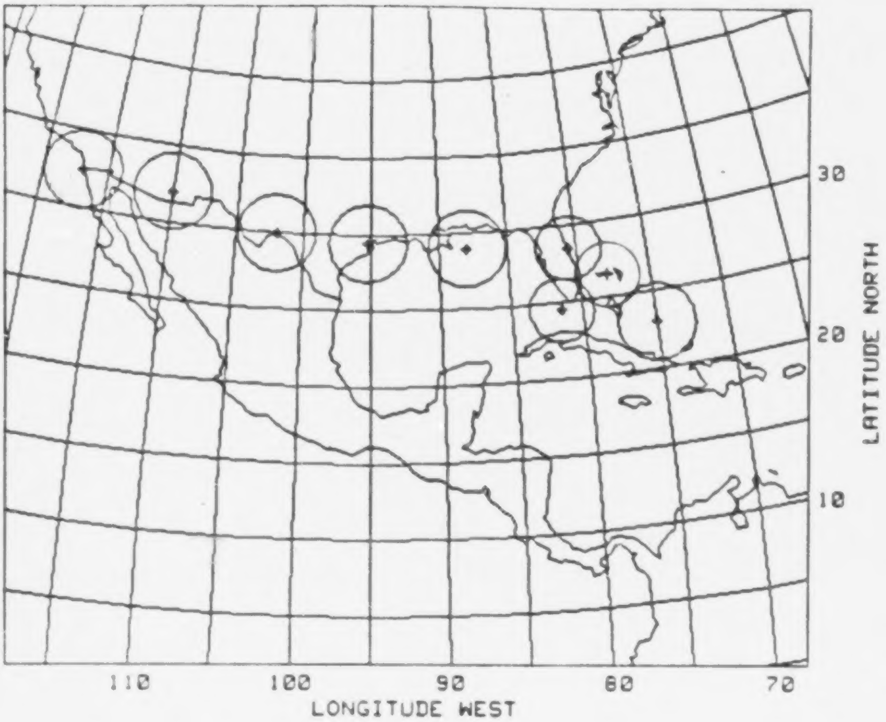


Figure V-2

Representative Coverage of:

Configuration #2

6 Dedicated E-2Cs
3 Land-Based Aerostats

NOTE: These maps are representative; they do not reflect average amount of time on station per week. This is a critical measure in comparing an aerostat with a high time on station percentage and E-2C with a much lower figure. Rather, these maps are meant to convey a relative total amount of coverage represented by the assets included in each configuration, when the time on station data are considered.

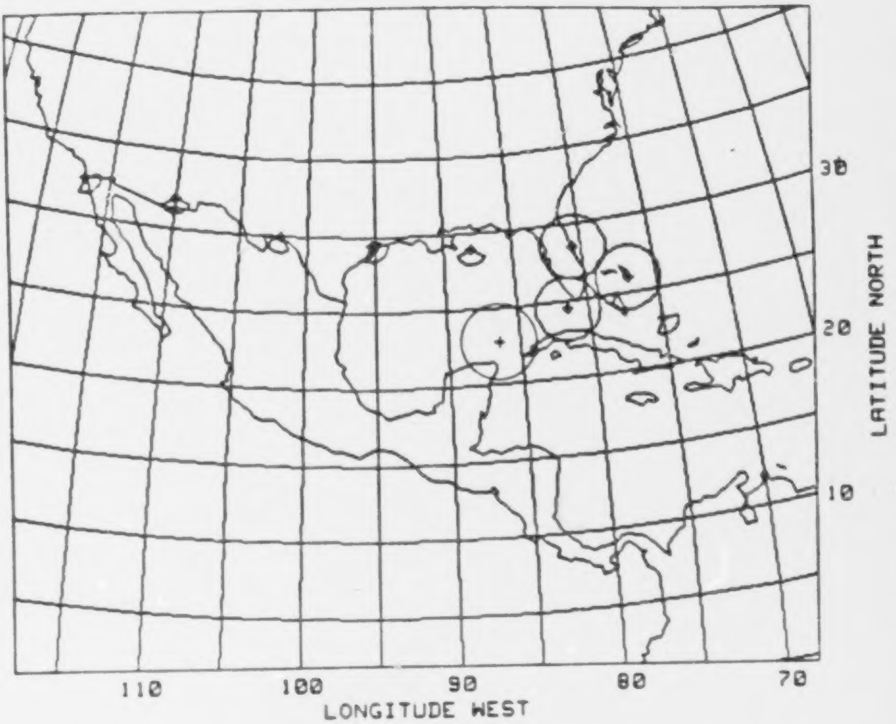

30
20
10
LATITUDE NORTH
110
100
90
80
70
LONGITUDE WEST

Figure V-3

Representative Coverage of:

Configuration #3

6 P-3As with APG-63 Radar
3 Land-Based Aerostats
1 E-2C

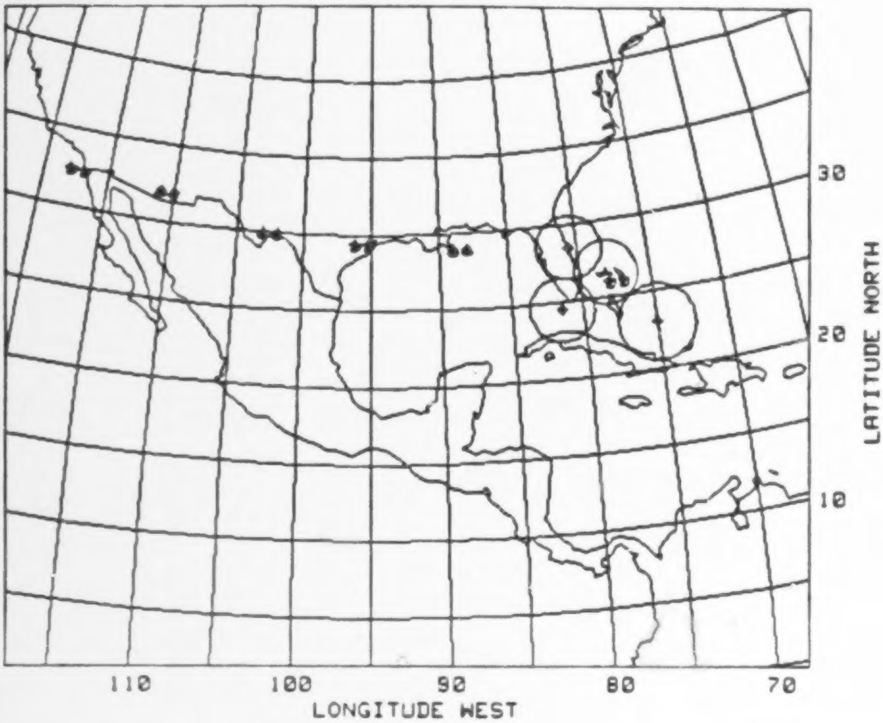
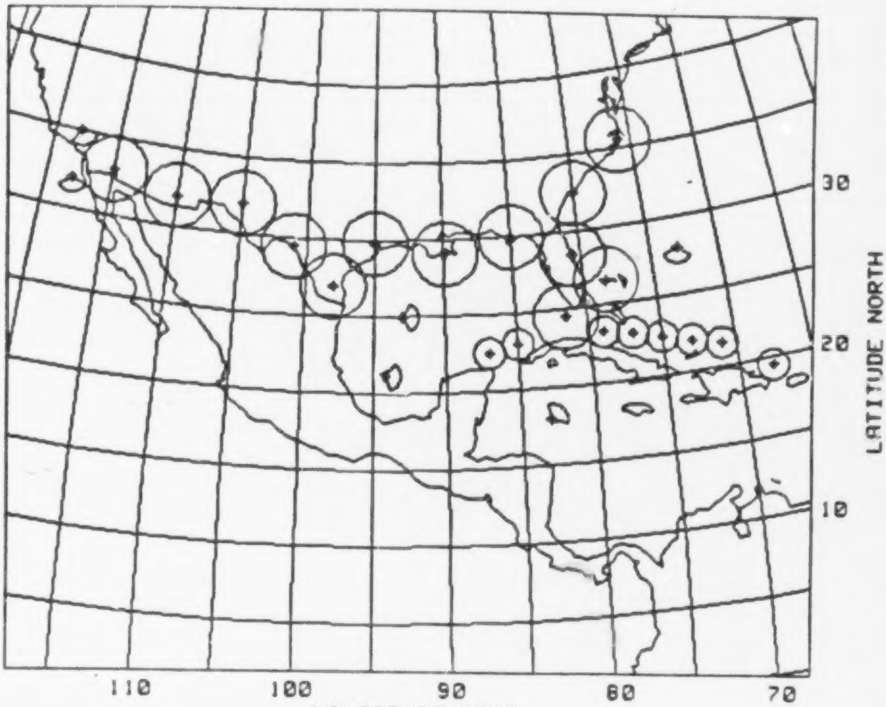

30
20
10
LATITUDE NORTH
110
100
90
80
70
LONGITUDE WEST

Figure V-4

Representative Coverage of:

Configuration #4:

12 CHET Aircraft with APG-66
3 Land-Based Aerostats
1 E-2C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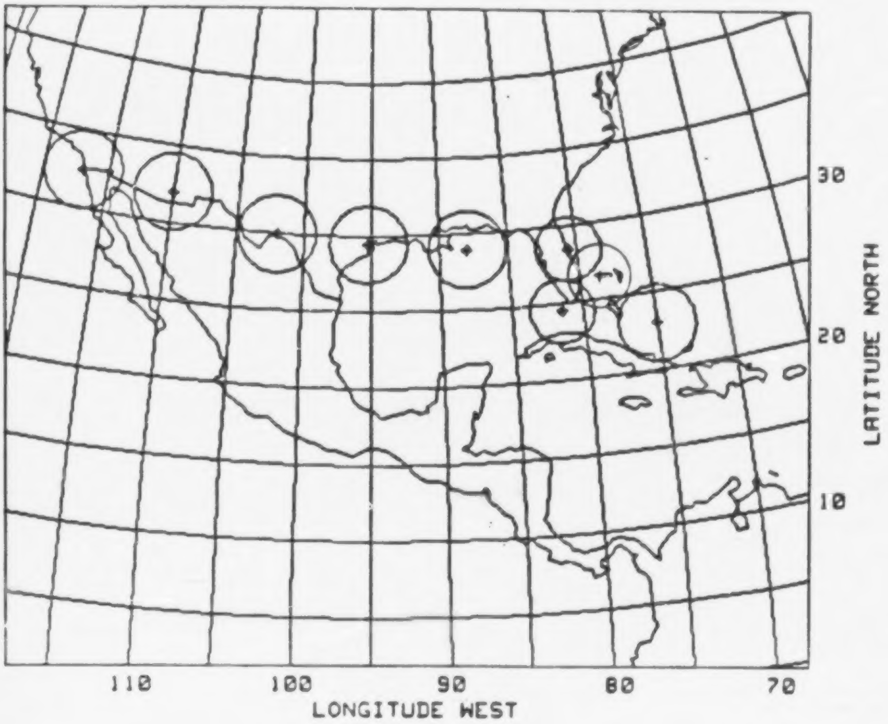
LONGITUDE WEST

Figure V-5

Representative Coverage of:

Configuration #5
13 Land-Based Aerostats
8 Sea-Based Aerostats
6 P-3As with APG-63 Radar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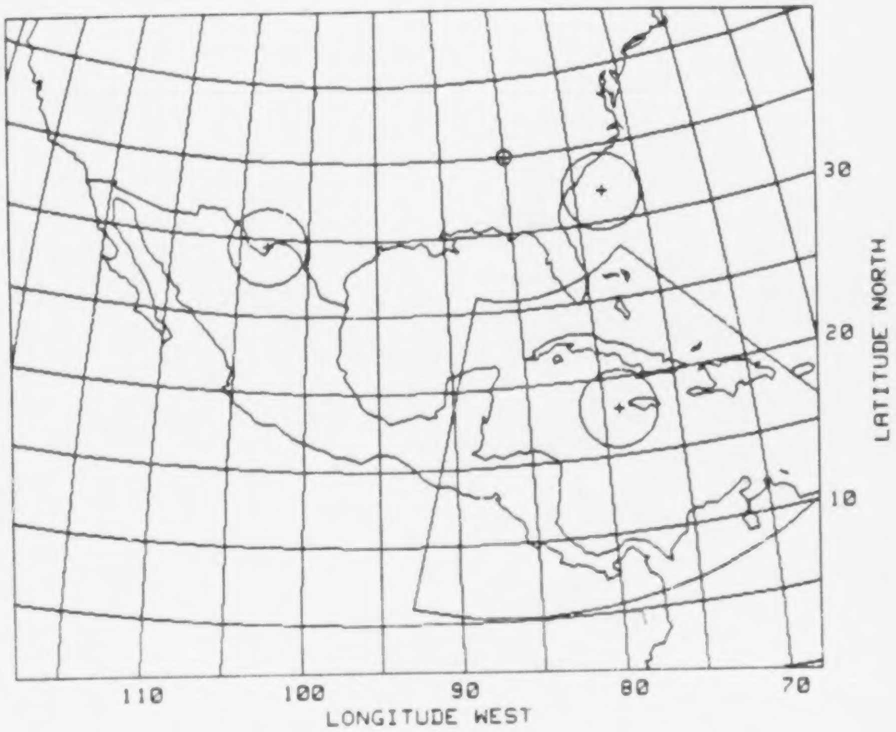
LONGITUDE WEST

Figure V-6

Representative Coverage of:

Configuration #6

6 P-3As with APS-125/138
3 Land-Based Aerostats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LATITUDE NORTH
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LONGITUDE WEST

FIGURE V-7

Representative Coverage of:

Configuration #7

DoD OTHR Radar
3 E-2C Aircraft with AN/APS-125 or AN/APS-138

- Configuration #1.
- Twelve Customs High Endurance Trackers (CHET) aircraft with APG-66, employed in a detection role.

Configuration #5 (see Figure V-5)

- Configuration #1.
- Ten additional land-based aerostats.
- Eight sea-based aerostats.
- Six P-3A aircraft with APG-63 radar.

Configuration #6 (see Figure V-6)

- Configuration #1.
- Six P-3A aircraft with APS-138

Configuration #7 (see Figure V-7)

- Configuration #1.
- DoD OTHR system with 60-degree x 500-nmi barrier coverage over the Mexico-U.S. border, over the Gulf Coast/Florida zone, or over the Caribbean with its choke points. Barriers 500-nmi deep can be placed anywhere with OTHR range of 500 to 1,800 nmi.
- 3 E-2C Aircraft with AN/APS-125 or AN/APS-138

F. Results of Model

Our model provides the following results concerning the percentage of smuggler aircraft detected. It is important that these outcomes be interpreted in relative rather than absolute terms. That is, we are more confident of the outcomes in terms of the relative effects of one configuration compared to another, rather than any interpretation that any particular configuration will produce a specific percentage of detections.

Table V-3 displays the results of the model. In brief, the table displays the configuration analyzed, the time required for the configuration to become operational, acquisition and operational costs of the model, and the anticipated percentage of smuggler aircraft to be detected. Figure V-8 displays the 10-year cost of these configurations, their anticipated results, and estimated costs per detection.

All cost figures should be considered tentative and represent

Table V-3

ALTERNATIVE AIR DETECTION ASSET CONFIGURATIONS

Configuration	Time Required to Become Operational	Costs ($ millions)		Percentage of Smuggler Aircraft Detected
		Acquisition	Operational Cost per Year^{a}	
1. Current assets	Available today	x	x	5-6
2. Current plus equivalent of 6 E-2C dedicated to drug interdiction with APS-125 or APS-138	1-2 years	x + 120-220^{c}	x + 22	16-18
3. Current plus 6 P-3 with APG-63	1-2 years	x + 30^{b}	x + 24-27	11-15^{f}
4. Current plus 12 CHET with APG-66 or APG-68	1-2 years	x + 60	x + 7	13-17^{f}
5. Current plus 6 P-3 with APG-63 radar, 12 land-based aerostats, 6 sea-based aerostats	2-4 years	x + 145	x + 76	22-32^{e}
6. Current plus 6 P-3 with APS-138 radar	2-3 years	x + 100^{d}	x + 24	17-23^{f}
7. Current plus OTHR plus 3 E-2C	2-3 years	x + 120-168	x + 18	28-31^{f}

Note: Base reference "x" is the cost of the present air detection physical assets.

[a] Operational costs for P-3 and E-2 are based on operation of 1500 hours per aircraft per year.

[b] Includes amounts of approximately $1.5 million spent by Customs in FY 1984.

[c] Estimate of $120 million is based upon assumption that existing E-2Cs would be taken from military (who would procure new ones) and "stripped" of equipment and capabilities unnecessary for drug interdiction mission. Estimate of $220 million is based upon costs of new E-2Cs with drug interdiction capabilities. Both versions would have added fuel tanks to attain about 9 hours flying time.

[d] Includes prototype test bed costs of $25 million and acquisition costs of $55 million.

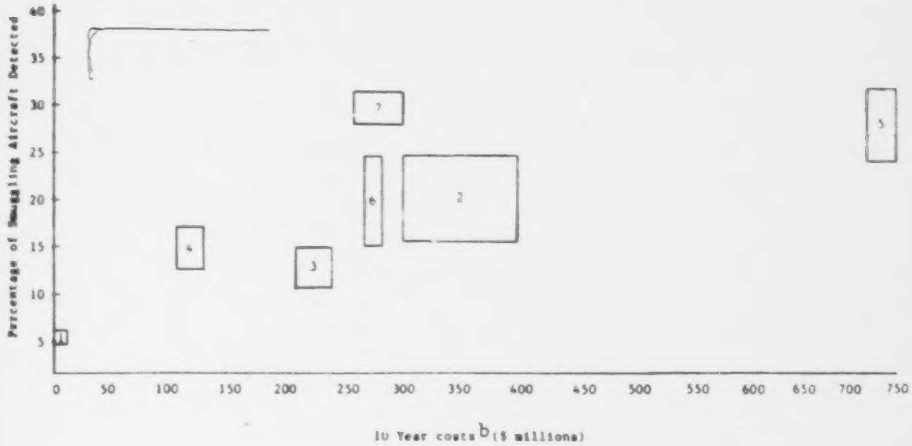
[e] Critical unknown in this variable is the performance of aerostats. If performance levels were "doubled," then the percentage probability would increase up to 32%.

[f] Lower range reflects greater concentration of smuggling flights in Southwest.

FIGURE V-8

ANALYSIS OF ALTERNATIVE AIR CONFIGURATIONS

Costs versus Detections[a]



Configuration	Additional 10 Year Cost ($ millions)[b]	Detection (%)	Cost per Additional Detection[c]
1. Current assets	--	5-6	--
2. Current plus 6 dedicated E-2C	290-390	17-23	$31,000
3. Current plus 6 P-3/APG-63	210-233	11-15	39,000
4. Current plus 12 CHET/APG-66 or -68	114	13-17	16,000
5. Current plus 6 P-3/APG-63, 12 land-based aerostats, and 8 sea-based aerostats	721	22-32	45,000
6. Current plus 6 P-3/APS-138	280	17-23	26,000
7. Current plus OTHR plus 3 E-2C	255-303	28-31	13,000

[a] This chart represents general detection estimates as generated by the model and does not reflect such important considerations as the need to test operationally these assets or the quality of detections.

[b] Ten-year cost is acquisition cost plus present value of operating costs. Future operating costs are discounted at 7% per annum.

[c] Assumes threat of 7,500 flights per year.

our best judgements at this time based on numerous conversations with government officials and appropriate manufacturers.

For the current situation, we estimate that between 5-6% of the smuggler aircraft approaching the United States are being detected. These results are consistent with the available, although extremely limited, data concerning seizures and crashes, as well as the threat data described earlier. As indicated, this low rate of smuggler aircraft detected results from the limited coverage of available assets as well as current performance levels of these assets.

The most powerful configuration, in terms of anticipated detections, is Configuration 7, which consists of current radar assets plus OTHR plus 3 E-2Cs. It should be emphasized, however, that only the E-2C portion of this configuration has proven operationally effective. Results available in a classified report prepared for the Department of Justice demonstrate the potential of OTHR as a countersmuggling asset for detecting and tracking small, slow-flying aircraft. Based upon these results, and the potential described in this model, we would recommend that either the Defense Department or the Treasury Department sponsor a series of tests to extend our knowledge of the performance of OTHR systems in coping with the drug smuggling population.

We anticipate that this series of tests would involve an intensive effort over a 6-month period, followed by intermittent tests over a second 6-month period to check for seasonal effects involving ionospheric propagation. The series of tests, including use of an existing experimental OTHR system, has an estimated cost of $500,000 to $1,000,000. These tests would involve the detection and tracking of known aircraft through air space occupied by other aircraft, the development and evaluation of interceptor vectoring techniques, and the demonstration of command and control techniques.

The second most powerful configuration, in terms of anticipated detections, is Configuration 5, which consists of current radar assets plus 6 P-3 aircraft with APG-63 radar, 12 land-based aerostats, and eight sea-based aerostats. This option is also the most expensive, with acquisition costs of a minimum of $145 million and annual operational costs of $76 million. It is difficult to be precise on the cost estimates for this configuration, primarily because these aerostats have not been fully developed and tested.

This configuration is powerful because it would, in effect, create a wall of land-based radar systems around the southeastern, southern, and southwestern borders of the United States. (See Figure V-5).

Perhaps the most critical variable with respect to this configuration is the performance potential of these aerostat radar systems. In general, it is our judgment that balloon-based radar systems have not reached the level of stability in operations that is characteristic of certain airborne radar platforms. This is not to conclude that considerable improvements could not be accomplished in the near future. Until these systems are demonstrated and evaluated to establish their effectiveness as a countersmuggling asset, we would advise against any major acquisition program.

Clearly, a major limitation of land-based aerostats is their lack of mobility. As described earlier, to the extent that smugglers are aware of the aerostats, they will avoid them.

We would therefore advise that:

(1) the aerostat currently located at Patrick Air Force Base be moved to another location in the Caribbean where the probability of detections is greater; and

(2) the Coast Guard include some form of test of upward-looking radar on the planned sea-based balloons in order to determine their potential as a sea-based aircraft detection system.

The third most powerful configuration that results from the model is either Configuration 2 or Configuration 6, both of which rely solely on the APS-138 radar plus current assets. We estimate that between 17-23% of the air penetrations would be detected under either of these configurations. Under Configuration 2 the APS-125/138 radar would be flown with the E-2C airframe. This represents a system that has proven successful in countersmuggling activities. In order to make maximum use of the E-2C aircraft, we recommend that the aircraft be modified to remove unnecessary military equipment and provide additional fuel storage tanks. This would provide approximately 9 hours of flying time per mission. The estimated cost of transitioning each E-2C from the Navy inventory and converting the aircraft for USCS operation would be approximately $20 million. This estimate is based on an analysis of anticipated life-cycle costs of existing airframes, as well as conversion costs for countersmuggling purposes. It is assumed that the APS-125 radar system would remain in the E-2C airframe. The major advantage of this option is that it would provide a proven, powerful asset to the countersmuggling effort in extremely short time-frames, assuming that an agreement could be reached with the Defense Department concerning the transfer of these assets.

Converting existing E-2C to countersmuggling activities requires agreement from the Navy to provide these assets, under the assumption that Navy would procure new aircraft for its inventory. Alternatively, the Federal government could purchase additional E-2C, with estimated cost of $36-37 million for aircraft that would be designed to maximize countersmuggling capabilities. These differences account for the wide range in cost for this configuration. That is, the cost range reflects these two alternatives: (1) acquiring used aircraft and equipping them for drug smuggling ($20 million each for a total of $120 million); (2) acquiring new aircraft equipped for drug smuggling operations ($36-37 million each for a total of $220 million).

If the E-2C option is cost prohibitive, then the alternative, as shown in Configuration 6, is to develop a prototype testbed to place the APS-138 on the P-3 airframe. This option would provide the same level of detections against smuggling aircraft as the E-2C option. It has the disadvantage, however, of requiring extensive systems integration, thereby delaying the time by which additional detection assets could be employed.

Analysis of the other two configurations indicates that the basic trade-off between six P-3 aircraft with APG-63 radar and 12 CHET with APG-66 radar is one of costs. Both configurations provide similar probabilities for detecting smuggling aircraft, although these probabilities are substantially lower than those provided by Configurations 2 and 6. The operational costs of the CHET are substantially lower than the costs of the P-3; however, acquisition costs of the CHET exceed similar costs for the P-3 because of the availability of these aircraft from the Department of Defense. The cost comparision of Configurations 3 and 4 suggest that, pending actual testing to verify that similar performance levels could be established, a long-term strategy of acquiring additional CHET for a detection role may be preferable. This would especially be true if APG-68 radar can be placed in the CHET. Current indications are that this upgrade is technically feasible, with estimated costs of $7.7 million for the initial prototype, and $6.7 million for each additional installation. APG-68 radar installed in 12 CHET would provide approximately twice the coverage of six P-3 with APG-63.

G. Summary of Advantages and Disadvantages of Potential Major Air Asset Configurations

1. Current Assets

Advantages:

1. Low cost, no incremental costs above current program.
2. Well concentrated in Southeast Region.

Disadvantages:

1. Not an effective air smuggling deterrent; probability of detection is approximately 5%.
2. Not flexible; essentially all dedicated assets are fairly fixed. Flexible assets are limited to DoD assistance.
3. Minimum coverage in other than Southeastern Region.
4. Detection with FAA and balloon radars have not been easy to intercept.

2. Current Assets plus Equivalent of 6 E-2C Aircraft Dedicated to Drug Interdiction

Advantages:

1. Highly flexible.
2. Proven air frame with proven radar capabilities.

3. Potential for assistance in military functions.
4. Will provide good capabilities for marine interdiction.
5. Detections made with E-2C result in a high percentage of intercepts.

Disadvantages:

1. Costly to acquire--estimated minimum of $20 million per aircraft if Navy is willing to provide existing aircraft; this increases to $36-$37 million for new aircraft.
2. Trade-off between aircraft endurance and assistance to military. Additional weight entailed to increase endurance from approximately 5 hours to 9 hours will require removing assets useful to military.
3. Aircraft dedicated to drug smuggling has disadvantage of not fulfilling full military requirements, although they would be useful in military emergencies.

3. Current Assets Plus 6 P-3 Aircraft with APG-63

Advantages:

1. Available with minimum acquisition costs, which will be shared by military.
2. Proven aircraft and proven radar.
3. Will provide quick response to ongoing problem.
4. More capable APS-138 radar could later be installed in P-3 aircraft.
5. Fair capabilities to support marine detection; excellent capabilities with APS-137 radar.
6. P-3 should be able to track a detected aircraft until an interceptor/tracker arrives.

Disadvantages:

1. APG-63 radar provides minimum coverage when compared with APS-125/138--see Figure C-8.
2. Current APS-80 radar has very limited capabilities to address small boat problem, although APS-134, an advanced air-to-surface radar, could be installed to provide outstanding capability.

3. High operational costs when compared to CHETS (about six times higher).

4. Current Assets Plus 12 CHET with APG-66 or APG-68 Radars

Advantages:

1. Low operational costs--approximately 1/6 of other airborne platforms analyzed.

2. APG-68 radar may approximate coverage levels of APG-63 radar in the P-3 (subject to confirmation that increased weight and power of APG-68 over APG-66 is not a problem for CHET installation). APG-66 radar would provide one-half the range of the APG-63.

3. Proven aircraft with proven radars.

4. Could be used in interceptor/tracker functions.

Disadvantages:

1. Radar coverage is limited when compared to options containing APS-138 radar (see Figure V-9).

2. Acquisition costs exceed those of P-3 because CHET aircraft would have to be purchased.

3. Poor utility for marine detection.

4. Not useful for military functions.

5. Current Assets Plus 6 P-3 Aircraft with APG-63 Radar, 12 Land-Based Aerostats, and 6 Sea-Based Aerostats

Advantages:

1. Will form choke points to maximize utility of flexible assets.

2. Will create a comprehensive border interdiction system; system will be useful for several purposes.

3. Estimates are that this configuration would provide greatest percentage of detections.

4. Fair in marine detection support, with potential for excellent coverage with APS-137.

Disadvantages:

1. Not mobile; smuggling can avoid by shifting North or using

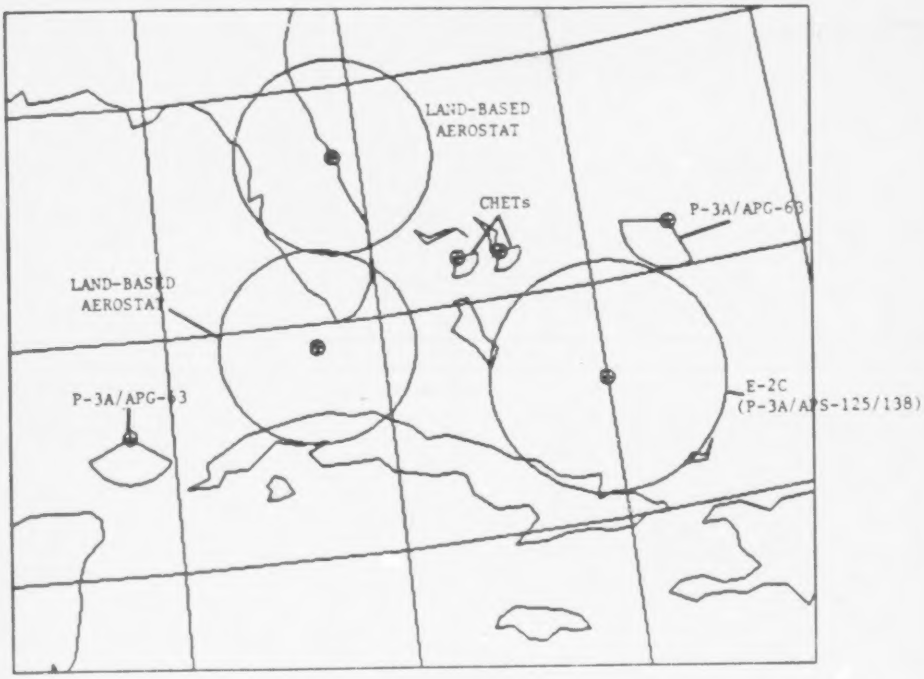

LAND-BASED AEROSTAT
CHETs
P-3A/APG-63
LAND-BASED AEROSTAT
P-3A/APG-63
E-2C (P-3A/APS-125/138)

FIGURE V-9

Representative Coverage of:

2 Land-Based Aerostats
1 E-2C
2 P-3As with APG-63
2 CHETs with APG-66 (smaller arcs)

terrain masking on SW border.

2. Aerostat performance unproven; additional evaluation required.

3. FAA may oppose, as will other organizations interested in free use of air space.

4. Unproven at this time that sea-based systems can provide effective air deterrence.

5. Aerostats may be "down," that is, not in use, up to 30% of the time, allowing smuggler to get through the barrier.

6. Most costly option; high acquisition costs ($145 million), as well as considerable operational costs ($76 million per year).

7. Detections by balloon borne radars to date have not resulted in a high percentage of intercepts.

6. Current Assets Plus 6 P-3 Aircraft with APS-138 Radar

Advantages:

1. Flexible and wide-area radar coverage that far exceeds all other assets except E-2Cs which it equals; see Figure V-9.

2. Proven aircraft and proven radar system.

3. Higest detection levels at operating costs comparable to those of other configurations.

4. Excellent support for marine function with APS-137; greatest potential for addressing small boat problems.

5. Useful support for military during emergency.

6. Detections made with this type of radar result in a high percentage of intercepts.

Disadvantages:

1. Requires development of prototype testbed; could extend period before system will be available.

2. Considerable acquisition costs, in part, because of systems integration requirements.

3. Systems integration task may become complex and costly.

7. Current Assets plus 3-E2C plus OTHR

Advantages:

1. Difficult to elude OTHR, thus best used where elusive

flight is otherwise safe and easy, such as overland.

2. OTHR can be very effective in flushing E-2C and interceptors and in vectoring them to a maneuvering target.

3. Overall costs reasonable, operating costs low.

4. OTHR output useful in intelligence gathering, both for countersmuggling and anti-terrorist objectives.

Disadvantages:

1. Environmental Impact Statement process for OTHR can take up to 18 months.

2. Decision as to OTHR coverage may conflict with other users' objectives, making sharing of assets more tenuous.

3. OTHR can collect too much data for easy assimilation--may require data reduction and correlation activity against civil air control data base.

H. Analysis of Alternative Air Detection Assets in Incremental Terms

Up to this point, we have analyzed various detection assets as they might appear after several years of development and procurement. We recognize, however, that this development should be an incremental process, that the Treasury Department should not be in the position of immediately purchasing the configurations described above. The situation should be one of acquiring a lesser number of any given asset, testing it operationally, and then making subsequent resource decisions.

In recognition of this fact, it is useful to examine the incremental benefits and costs associated with each of the previously discussed aircraft/radar combinations. It should be noted that the detection results cited here are valid for the small numbers of aircraft which we are considering. For this limited number of aircraft, it is valid to assume a linear relationship between each additional aircraft and additional detections per year. Should more aircraft be deployed, however, the incremental returns would begin to decline. The following estimates, shown in Table V-4, show approximately what could be expected of one of each of these assets in its first year.

The table shows that a dedicated E-2C added to current assets would yield an additional 131-157 smuggler detections per year. Acquisition costs for such an aircraft range from $20 million to $37 million, depending on the availability of used airframes. Operation and maintenance is approximately $3.7 million per year. Over a ten year $36,000 and $51,000. An additional benefit of the E-2C is that it has flown against smugglers and has proven effective and that it is currently in operational status. Should it be given a high enough

Table V-4

INCREMENTAL EFFECTS OF SINGLE ASSETS

Asset	Additional Detections per Year	Cost ($ million)		Cost per Additional Detection (over 10 years)
		Acquisition	Operational Cost per Year[a]	
E-2C	131-157	20-33	3.7	36,000-51,000
P-3/APG-63	68-120	5	4.0	38,000-66,000
P-3/APS-138	143-218	25[b]	4.0	30,000-45,000
CHET	47-72	5	0.58	15,000-23,000

[a] Operational costs of E-2C and P-3A are based on operation of 1500 hours per aircraft per year.

[b] Prototype cost. Acquisition costs of future aircraft would be approximately $11 million.

priority, E-2C could begin flying anti-smuggling operations immediately.

The P-3A with the APG-63 radar is currently being tested by the U.S. Customs Service in an anti-smuggling role. The analysis indicates that each P-3A/APG-63 added to current assets would result in 68-120 additional smugglers detected per year. The cost of installing the radar is estimated at $5 million, and the aircraft would cost about $4 million per year to operate. This yields a cost per additional detection, over ten years, of between $38,000 and $66,000.

The integration of the APS-138 radar into the P-3A airframe requires development of a prototype testbed. Assuming this is successful, a single P-3A/APS-138 added to current assets would yield 143-218 additional smugglers detected per year. Over 10 years each additional smuggler detected would cost between $30,000 and $45,000.

The Customs Service is currently planning to acquire Customs High Endurance Trackers (CHETs), with the first expected to be delivered in mid-1985. If used purely in a detection role, the CHET could be expected to produce between 47 and 72 additional detections per year. The acquisition cost of the CHET is $4.5 million and it costs $580,000 per year to operate. The cost of additional detections associated with the CHET would then be $15,000-$23,000.

Based upon the incremental effects of these various assets, we have also analyzed particular combinations that represent appropriate acquisition strategies in the short-term. Anticipated costs and benefits of these sub-configurations are depicted in Table V-5.

I. Implications for Interception/Tracking/Apprehension Aircraft

This section summarizes the effects of the above analysis concerning air detection assets on the other major air interdiction components -- interception, tracking, and apprehension.

Interception requires high speed aircraft with fairly high quality sensors, including infrared and radar capabilities. The Customs Service currently uses Cessna Citation jet aircraft for this function. Tracking requires aircraft with long range, good speed and sensors similar to the interceptors. The Citations curently perform this function, but Customs is currently procuring a fleet of Customs High Endurance Trackers (CHETs) specifically for this task. The contract is scheduled to be awarded in December 1984 with delivery to commence in 1985. Apprehension requires an aircraft which can arrive at the scene of an enforcement stop with a team of at least four officers and land in possibly unfavorable conditions. Army Blackhawk and Cobra helicopters are currently used for this purpose. In total, Customs currently has three interceptors, five trackers, and eight helicopters.

Customs experience indicates that a single mission usually requires at least three aircraft, one of each type. It is expected that the CHET will be able to function as an interceptor as well as

Table V-5

ALTERNATIVE AIR DETECTION ASSET SUB-CONFIGURATIONS

Configuration	Time Required to Become Operational (years)	Costs ($ million)		Percentage of Smuggler Aircraft Detected
		Acquisition	Operational Cost per Year[a]	
1. Current assets	Available today	x	x	5-6
2. Current assets plus 2 dedicated E-2C's	0-1	x + 40-74	x + 7.5	9-9.7
3. Current assets plus 3 dedicated E-2C's	0-1	x + 60-111	x + 11.5	10.75-11.75
4. Current assets plus 3 P-3A's with APG-63	1	x + 13	x + 12	8.25-10.25
5. Current plus 2 dedicated E-2C's and 2 P-3A's w/ APG-63	2	x + 50-84	x + 15.5	12-16
6. Current plus 2 dedicated E-2C's and 6 dedicated CHETS	1.5-2	x + 70-104	x + 11	13-17

[a] Operational cost of P-3A and E-2C is based on operation of 1500 hours per aircraft per year.

tracker, thus making it possible for one CHET and one Blackhawk to complete a mission. On the other hand, it is often necessary, due to a long pursuit, to involve more than one tracker or helicopter, with alternate refueling.

At the same time, Customs experience has shown that, including time-on-station, refueling, maintenance time, and crew requirements, it is possible for an "air team" of interceptor, tracker, and helicopter to launch and follow up on one detection per day. This information, when taken together, would indicate that Customs is currently able to launch once, possibly twice, per day in Miami and less often elsewhere. Under the best of circumstances, with all aircraft ready to fly, Customs is currently able to launch and follow-up on a total of three or four detections per day. Our analysis indicates that current detection assets should provide roughly 400 detections per year, or slightly more than one per day. The problem, however, lies in the distribution of assets and detections along the border. The fact that two of the currently owned Customs interceptors are based in Miami and that aircraft are often unavailable due to maintenance requirements result in Customs often being unable to respond to smuggler detections. One proposed response to this situation results in two each of interceptors, trackers, and Blackhawk helicopters at each of eight Air Support facilities. At most, then, Customs would have the capability of launching and following up on sixteen detections per day. In reality, considering maintenance and other down time, Customs would eventually have the capability of following up on 12 or 13 detections per day. Assuming a nationwide threat of 7,500 flights per year, this capability would compare with a threat, if evenly dispersed, of approximately 21 per day. The most optimistic results of the most powerful detection configuration described above would yield about six or seven detections per day. It would appear, therefore, that the option of two interceptors, trackers, and helicopters at each air support branch would be excessive.

Due to this analysis, and taking into account the geographic distribution problem as well as the dual function of the CHET, we would suggest that an air facility with one interceptor, one tracker, and one CHET (three aircraft rather than four) would always be able to put an interceptor and tracker in the air, regardless of which aircraft was down for maintenance. With this short-term deployment strategy as a goal, we would recommend that three CHETs be acquired in fiscal year 1986. This would be in addition to the six CHET and six C-12 aircraft scheduled to be acquired in 1985.

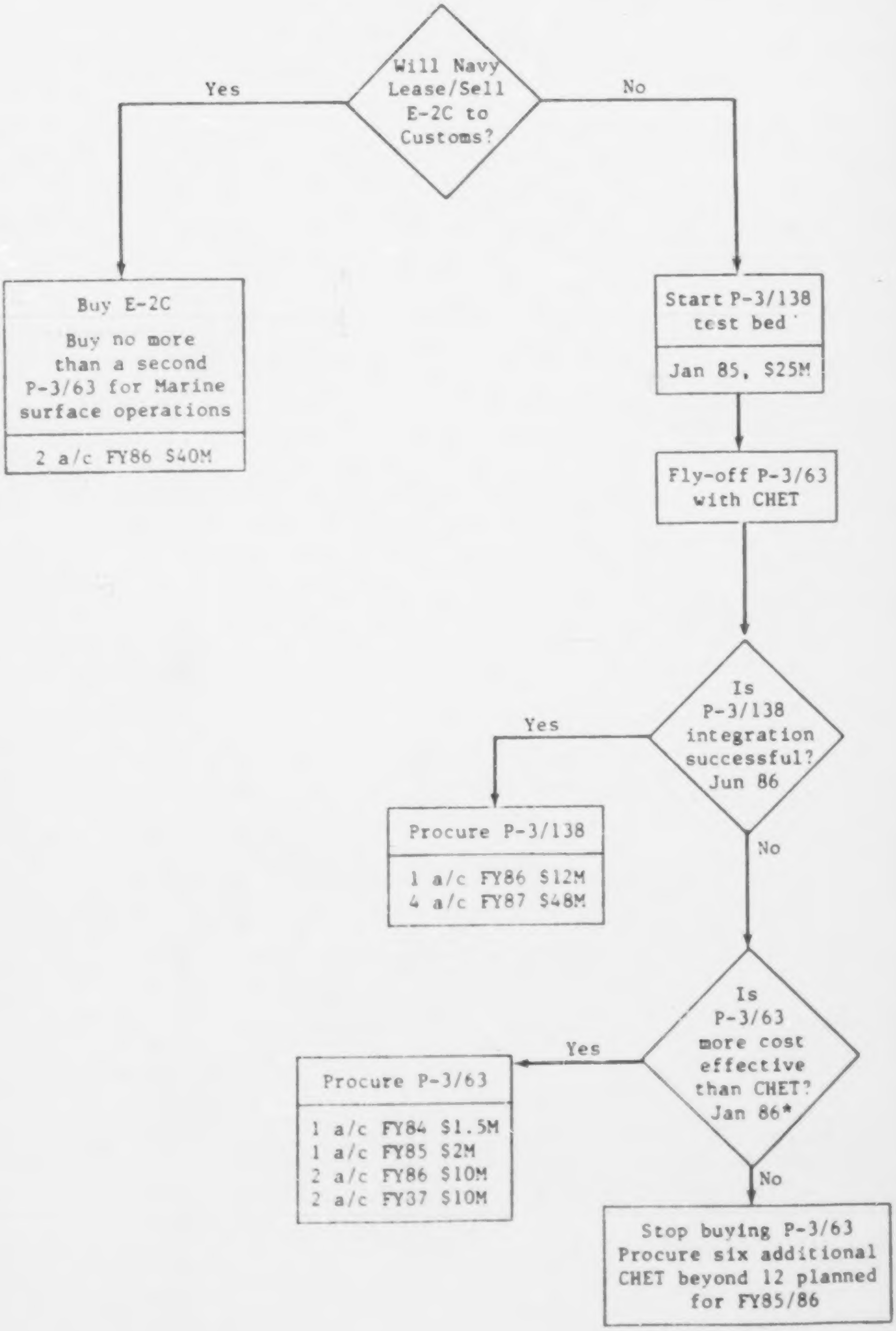
J. Summary of Major Recommendations

The decision tree on the following page summarizes our recommendations for future asset acquisitions for the air detection function.

In brief, we recommend determining whether the Navy will give, sell, or lease existing E-2C. If the Navy agrees, we recommend that Customs take immediate steps to convert these aircraft to effective countersmuggling devices by removing certain military

Table V-6

DECISION TREE FOR PROCUREMENT OF DETECTION CAPABILITIES


Will Navy Lease/Sell E-2C to Customs?
Yes
No
Buy E-2C
Buy no more than a second P-3/63 for Marine surface operations
2 a/c FY86 $40M
Start P-3/138 test bed
Jan 85, $25M
Fly-off P-3/63 with CHET
Is P-3/138 integration successful? Jun 86
Yes
No
Procure P-3/138
1 a/c FY86 $12M
4 a/c FY87 $48M
Is P-3/63 more cost effective than CHET? Jan 86*
Yes
No
Procure P-3/63
1 a/c FY84 $1.5M
1 a/c FY85 $2M
2 a/c FY86 $10M
2 a/c FY37 $10M
Stop buying P-3/63
Procure six additional CHET beyond 12 planned for FY85/86

*Hold this funding pending outcome in June 86 of success of P-3/138 integration.

equipment and adding more fuel-carrying capabilities. Any subsequent decision concerning the total number of aircraft to be acquired would depend on the results obtained with these dedicated aircraft.

In addition, we would move immediately to test the operational capabilities of OTHR against the drug smuggling threat.

If the Navy chooses not to lease or sell existing E-2C aircraft, we believe that it would not be cost-beneficial for Customs to acquire new E-2C aircraft. Instead, we recommend a strategy that would:

(1) determine whether to test a prototype P-3A with APS-138 radar; and

(2) test CHETS to be acquired in FY 1985 in a detection role.

If the prototype is successful, we would move to implement a fleet of of 2-3 P-3A aircraft as quickly as possible. If the prototype is not successful, we would measure the performance of the CHET against that of the P-3A with the APG-63 radar and base decisions for further procurement of aircraft by type on that outcome.

Details concerning the costs of these actions, along with the anticipated timeframes, are included in the decision tree table.

We recommend the purchase of three additional CHET aircraft in fiscal year 1986 to perform the interceptor/tracking function.

We further recommend that the development and evaluation of special devices such as transponders and aircraft flyover detectors be emphasized. These devices should have particular application in the Southwest border regions where smugglers have clandestine routes available to them because of the physical geography of the region. Such development and evaluation activities should be conducted by the U.S. Customs Service.

VI. FEDERAL ROLES AND RESPONSIBILITIES

A. Current Situation

Several major government agencies have a physical presence in border operations. These agencies include the Customs Service, the Coast Guard, the INS Border Patrol, the Drug Enforcement Administration, the Department of Defense, the Central Intelligence Agency, and the Federal Aviation Administration. While all these agencies participate to some extent in border control, the Customs Service currently carries the primary responsibility for the prevention of the smuggling of contraband into and out of the U.S. Other current responsibilities are:

- U.S. Coast Guard--USCG is the primary Federal agency directed at smuggling by sea. They conduct antismuggling operations within coastal waters near areas of production.

- U.S. Border Patrol--Within the Immigration and Naturalization Service, the Border Patrol is responsible for the control of illegal entry of persons along our border and therefore contributes to the antismuggling effort.

- Drug Enforcement Administration--The DEA is responsible for developing interdiction intelligence, participating in joint operations and subsequent investigations of drug trafficking.

- Defense Department--DoD has the responsibility for defending the country against all manner of military threats, including unauthorized incursions of our border and coastline. There is inherently, therefore, some overlap between this defense role and countersmuggling activity.

- Central Intelligence Agency--CIA is responsible for collecting, analyzing, and interpreting information from foreign sources that may be of importance to U.S. security. CIA provides strategic intelligence that is useful in countersmuggling efforts.

- Federal Aviation Administration--FAA has the responsibility for the control of legal air traffic in U.S. air space and they also provide flight plan data to the U.S. Customs Service.

In recognition of its responsibility, the Customs Service has established, in the past 15 years, the Customs Air Program, tasked with significantly inhibiting the smuggling of contraband by general aviation aircraft. In practice this has primarily meant fighting drug smuggling. The vast length of the U.S. border and the inherent mobility and flexibility of private aircraft traffic combine to make the job of detecting, intercepting, and apprehending airborne smugglers a considerable task.

It is logical, therefore, that when other Federal agencies are in a position to contribute to this effort, they make every effort to do so. It is often the case, of course, that an agency cannot increase its effort without threatening the completion of its own mission. However, when an agency can contribute to the anti-drug effort without seriously hurting its ability to achieve its own objectives, it is in the best interest of the country for that agency to do so.

Customs is already receiving a great deal of cooperative assistance from many quarters, particularly the Department of Defense. Much of this aid has been in helping Customs to detect incoming smugglers. The primary Defense Department contribution has been the use of Navy E-2C and Air Force E-3 (AWACS) aircraft on smuggler-detection sorties. The E-2Cs have proven particularly effective in the primary air smuggling routes in the southeast. DoD has also loaned a P-3 air search plane and the attendant radar so that the combination could be tested in the smuggler-detection role. Five more P-3s and radars have been promised should the test prove successful. In addition, DoD has allowed Customs access to NORAD radar output in the southwest which provides the San Diego and Tucson branches with good high-altitude, long-range radar coverage. Information on smugglers is also provided by the Defense Department radars at Guantanamo Bay, Cuba, and by NORAD radars.

The FAA has allowed Customs to monitor FAA radar networks by setting up Command, Control and Communication (C3) facilities in FAA Air Route Traffic Control Centers. C3s are currently located in Miami, Houston, and Albuquerque.

B. Primary Detection Role

Based upon our review of alternative air interdiction assets, we are recommending that for the next several years the U.S. Customs Service continue to have primary responsibility for detection and interdiction of private smuggling aircraft.

Detection of the drug smuggling threat requires the availability of some dedicated aircraft and appropriate radar. Our analysis points to the considerable detection capabilities of the E-2C equipped with APS 125/138 radar, when dedicated to the drug smuggling mission. When the plane is equipped with additional fuel tanks, its performance in the countersmuggling mission is maximized. However, to accomplish that optimum situation, it is necessary to remove equipment needed for military missions. Conversely, if military-related equipment remains in the airframe, while dedicated to the detection of drug smugglers, a poor cost-benefit ratio would result.

In addition, many areas of high threat are not near Navy E-2C bases. The limited fuel tanks of the carrier-capable Navy aircraft are not adequate for many detection missions.

Others have argued that additional E-2C, equipped for the military function and dedicated to countersmuggling, will help to support overall military readiness. However, the military has demonstrated that such training is of minimal value to overall training requirement for readiness, that the interoperability of equipment requires the use of aircraft in other than the countersmuggling asset mode, and that crew retention would be a problem for the military with dedicated aircraft.

There are advantages to having Customs perform the primary detection role:

(1) There is a critical need to integrate air and marine deterrent programs better. Either the P-3 or E-2C aircraft, with the appropriate radar, can provide this capability. Through such a vehicle Customs would have the ability to develop a fully integrated air and marine detection system.

(2) The recommended systems (E-2C or P3/138) can also serve as excellent mobile C-3 center for Customs, providing effective use of interceptor and apprehension aircraft even when operating away from an Air Support Branch. This gives Customs maximum flexibility to counter a shift in threat locations.

(3) Fully dedicated airborne assets are the most cost-beneficial in the short-term, when measured in terms of detections per cost. No other Agency would benefit, in terms of overall mission responsibilities, from operating such fully dedicated assets.

Over the long-term, our analysis suggests that the federal government should consider having the Defense Department assume an expanded role in detection. This is based on the capabilities of various experimental radars, including over-the-horizon radar. It is also highly likely that additional detection support will be required beyond those of the OTH radar. In such a case the Customs Service would play a supporting role in detection, while retaining the primary role for intercepting, tracking, and apprehending.

C. Additional Recommendations Concerning Roles of Federal Agencies

While cooperation among agencies at all levels of the interdiction process has grown substantially over the last few years, especially since the establishment of the National Narcotics Border Interdiction System (NNBIS), our analysis points out several key areas in which additional cooperation could yield significant detection results. These primarily relate to the Defense Department and the Coast Guard.

(1) Department of Defense

We recognize fully that the mission of the Defense Deparment is to be militarily ready at all times to defend the U.S. against military threats, and that any activity which would seriously impair this readiness would be unacceptable. At the same time, however, there may be areas in which Defense can increase its support of the drug interdiction mission without seriously endangering its other objectives. The development of the P-3 with an air search radar for Customs use or the transfer of dedicated E-2Cs will allow the Customs Service to assume a large part of the required detection responsibility. These aircraft will not be flying missions, however, for many months yet and, in the mean time, detection of air smugglers is inadequate. We recommend that the Defense Department make every effort to expand its E-2C and AWACS support, at least until the Customs P-3 or dedicated E-2C are fully operational and that DoD return to current levels of support at that time. Due to the vital nature of the smuggler detection mission, we recommend a review of the priorites for activities conducted by the E-2C and AWACS by appropriate Federal officials to determine if additonal drug interdiction support is feasible in the intermediate term.

In the short term, although DoD does not have the appropriate assets to play more than a support role in border detection of airborne smugglers, DoD should also continue to provide R and D assistance to Customs in this area. Into the long term (1990s and beyond), however, as new technologies such as over-the-horizon radar move towards the operational stage, this resource situation will change. We recommend that the Defense Department actively consider the detection of low-flying, slow-moving aircraft to be within the scope of its responsibility in the long term. DoD would then perform an expanded role in detection.

(2) Coast Guard

The Coast Guard is already heavily involved in drug interdiction efforts, both in concert with Customs and on its own. The Coast Guard maintains an air fleet of 19 C-130s and 35 Falcons with their attendant maintenance, facilities and staff. The Coast Guard is currently performing patrol and other missions in U.S. coastal regions. The Coast Guard is experienced at coordinating air and sea operations, a critical need in drug interdiction efforts. For all these reasons, Coast Guard is in a position to aid in the detection of airborne smugglers, with Customs maintaining primary responsibility for detection and full responsibility for interception and apprehension.

The Coast Guard is currently planning the deployment of several sea-based tethered aerostats to aid in their sea search efforts. We recommend that these aerostats be assessed for their potential use in an air search role, either through modification of current radar or with a different radar. While we recognize that the primary mission of the Coast Guard is Search and Rescue, we believe that a concurrent role in air smuggling detection could be assumed without impairing that primary function.

The C-130 airframe is capable of supporting any of the air search radars discussed in this report. Coast Guard has indicated that, while the existing aircraft now have difficulty covering the existing load of maritime missions, air detection activity could be conducted simultaneously with other activities on a single Coast Guard mission, and that Coast Guard is willing to do so. We strongly recommend that this possibility of installing air search radar on Coast Guard C-130s be studied. Further, Customs and Coast Guard should conduct a joint project to determine the feasibility of employing the C-130, or an alternative airframe, in countersmuggling activities.

VII. CONCLUSIONS AND RECOMMENDATIONS

In this study we have reviewed available data concerning the drug smuggling threat and concluded that: (a) a significant, highly flexible drug smuggling threat exists across all modes of entry into the country; (b) the drug smuggling threat from private aircraft is significant; and (c) current air interdiction systems are insufficient to constitute an adequate deterrent.

To place the assessment of air countersmuggling assets in perspective, we have reviewed air interdiction as a component of an overall interdiction effort, which in turn is part of a larger drug law enforcement and drug abuse program. Available data, although fragmentary, indicate that current interdiction capabilities are of limited effectiveness across all drug smuggling modes of entry into the country.

We have examined potential air detection assets and several configurations and concluded that placing either a AN/APS-125 or AN/APS-138 radar system in six P-3 or E-2C airframes would increase detection probability 4-5 times above current capabilities at a cost of approximately $300 million over ten years. The cost-benefit of this approach with the E-2C is dependent upon the ability of the Defense Department to lease/sell existing E-2C. Such an approach would also have the benefit of providing an immediate deterrent capability. If Navy is unable to provide these assets, the analysis suggests the need to test the feasibility of placing the APS-138 radar in the P-3.

We have also provided costs and detection probabilities for other configurations, including six P-3 with AN/APG-63, six CHETS with AN/APG-66, and six P-3 with AN/APG-63, plus 12 land-based aerostats and eight sea-based aerostats. All alternative configurations and assets were developed for analytical purposes and require operational testing to demonstrate effectiveness. Actual implementation of any of these, or any other, configurations, and plans for conducting appropriate tests, will depend on subsequent review by all federal agencies concerned.

The assessment of current assets supports the conclusion that the U.S. Customs Service should maintain responsibility for air detection in the next several years, with appropriate support from the Defense Department and the U.S. Coast Guard in the detection role. As more powerful, comprehensive detection systems are put in place in the 1990's, the Department of Defense should assume a greater role in detection.

The overall recommendation of the study is that the Federal government support a balanced interdiction program, one that builds comparable deterrent levels across all modes of entry into the country.

With respect to air detection assets, we recommend a configuration that relies on placing AN-APS 125 or AN/APS-138 radar in E-2C or P-3 airframes. The exact number of aircraft to be acquired would depend on results obtained from utilizing two of these aircraft in an operational mode, as well as policy judgement about the level of deterrent required. If either of these approaches proves infeasible, we recommend an explicit trade-off between the CHET with the APG-66/68 and the P-3 with the APG-63. The lower operational costs of the CHET suggest its cost effectiveness in the detection role.

We support increased interceptor, tracker, and apprehension assets as well. We have provided approximate costs and scheduling for the acquisition of all recommended assets.

Finally other recommendations in this study include the need to (1) conduct an overall threat assessment; (2) review the output from the Nation's intelligence system; (3) continue experimentation and development of several detection systems including transponders and aircraft flyover detectors; and (4) explore immediate operational changes, including operating existing E-2C detection flights near Guantanamo Bay and moving the existing aerostat at Patricks Air Force Base to a more appropriate location in the Caribbean.

Appendix A

DRUG TRAFFIC INDICATORS

Table

Commercial Air Passengers I

Commercial Air Cargo II

Commercial Air Cargo: Thorough Searches III

Non-commercial Aircraft IV

Commercial Vessels - Passengers V

Commercial Vessels - Cargo VI

Commercial Vessels - Cargo: Thorough Searches VII

Commercial Vessels - Containers VIII

Commercial Vessels - Crew IX

Non-commercial Vessels X

Land Traffic XI

Land Traffic - Vehicles: Intrusive Searches XII

Note: Summary statistics regarding entries, examinations and searches were obtained from the U.S. Customs Service's Transaction Reporting System, unless otherwise indicated.

Table I

DRUG TRAFFIC INDICATORS: COMMERCIAL AIR PASSENGERS

Persons Entering U.S.	22,098,797
Sent to Secondary Examination	3,099,888
Searched	31,233 (0.14%)
Narcotic Seizures 1/	2,996

1 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

Table II

DRUG TRAFFIC INDICATORS: COMMERCIAL AIR CARGO

Formal and Informal Entries	3,414,715
Formal and Informal Entry Exams 1/	2,795,891 (81.9%)
Thorough Searches 2/	10 %
Narcotic Seizures 3/	148

1 An examination is an attempt for an inspector to verify the contents of a shipment and not necessarily a search for narcotics.

2 A survey of five customs air cargo inspection facilities showed that, on average, 10 percent of incoming air cargo shipments are "de-vanned," meaning they are taken apart and searched, usually by a Contraband Enforcement Team (CET). Table III provides further detail.

3 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

Table III

COMMERCIAL AIR CARGO: THOROUGH SEARCHES

Port of Entry	Percent of Entries Subject to Intensive Inspection	Percent of Entries Subject to 100% Inspection
Anchorage, AK	75%	5%
Duluth, MN	40%	15%
St. Louis, MO	25%	10 - 12.5%
San Francisco, CA	40 - 50%	8 - 10%
Washington, DC	30%	10%
Average	43%	10.15%

Table IV

DRUG TRAFFIC INDICATORS: NON-COMMERCIAL AIRCRAFT

Legal Entrances	146,608
Legal Entrances Searched	109,045 (74.4%)
Estimate of Air Smuggling Flights 1/	7,500
Narcotic Seizures 2/	275

NOTE: Customs is required by law to search every incoming private aircraft. This is often not possible due to resource constraints. In addition, very few of these searches are intrusive enough to uncover well-hidden (for example, false fuel tanks) contraband. The number that are of this type is estimated by Customs inspectors to be on the order of 1 in 1000.

A survey of Customs inspectors at airports (Los Angeles, Tampa, New Orleans and Minneapolis) indicates that the proportion of private aircraft undergoing a thorough search is less than one percent. Inspectors indicated that a thorough search of a private plane compartments, including some disassembly of panels and vents, is only performed when the Customs Service is certain, based on prior intelligence information, that a plane is carrying contraband.

1 Source: SRI International Report, "Threat Assessment: Methodology and Analysis," 1979.

2 Source: EPIC Report, "Drug Movement Indicators/ Profile," March 1984.

Table V

DRUG TRAFFIC INDICATORS: COMMERCIAL VESSELS - PASSENGERS

Passengers Entering U.S.	4,030,862
Sent To Secondary Examination	359,130 (8.9%)
Passengers Searched	5,925 (0.15%)
Narcotic Seizures 1/	8

1 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

Table VI

DRUG TRAFFIC INDICATORS: COMMERCIAL VESSELS - CARGO

Formal and Informal Entries	1,439,967
Entry Examinations	1,356,071 (94.2%)
Thorough Searches 1/	5.7%
Narcotic Seizures 2/	9

1 The same rule applies here as for air cargo. The 5.7 percent is derived from a survey of Customs marine cargo inspection facilities. Table VII provides further detail.

2 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

Table VII

COMMERCIAL VESSELS - CARGO: THOROUGH SEARCHES

Port of Entry	Percent of Entries Subject to Intensive Inspection	Percent of Entries Subject to 100% Inspection
Los Angeles, CA	10%	1 - 1.5%
New Orleans, LA	20%	7.5 - 10%
St. Louis, MO	25%	10 - 12.5%
San Francisco, CA	30%	1.5%
Average	21.25%	5.69%

Table VIII

DRUG TRAFFIC INDICATORS: COMMERCIAL VESSELS - CONTAINERS

Containers Entering	2,949,107
Containers Receiving 100% Exam 1/	112,838 (3.8%)
Narcotic Seizures 2/	75

1 A 100 percent exam means the inspector follows the container to its final destination and watches it being unloaded, then checks the empty container for hidden contraband. Each piece in the container is not examined. The other 96.2 percent of containers undergo a "tailgate exam" in which the door of the container is opened and one box is examined to verify the manifest. While some containerized cargo enters on airplanes, the vast majority is marine cargo.

2 Source: EPIC Report, "Drug Movement Indicators/ Profile," March 1984.

Table IX

DRUG TRAFFIC INDICATORS: COMMERCIAL VESSELS - CREW

Vessels Entering	93,929
Vessels Searched	10,259 (10.9%)
Narcotic Seizures 1/	76

1 Source: EPIC Report, "Drug Movement Indicators/ Profile," March 1984.

Table X

DRUG TRAFFIC INDICATORS: NON-COMMERCIAL VESSELS

Legal Entrances	66,881
Searches	6,084 (9.1%)
Estimate of Non-commercial Smuggling Vessel-trips 1/	8,460
Narcotic Seizures 2/	444

NOTE: A survey of Customs inspectors at marine facilities (Galveston, Miami, Tampa, Boston, Savannah and San Diego) indicates that the proportion of private vessels undergoing a thorough search is less than one percent. Inspectors indicated that a thorough search of a private vessel compartments, including some disassembly of panels and vents, is only performed when the Customs Service is certain, based on prior intelligence information, that a vessel is carrying contraband.

1 Source: SRI International Report, "Threat Assessment: Methodology and Analysis," 1979.

2 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

Table XI

DRUG TRAFFIC INDICATORS: LAND TRAFFIC

Legal Entrances		
Pedestrians	27,099,704	
Searched	14,008	(0.052%)
Vehicle Passengers	224,802,881	
Searched	76,585	(0.034%)
Vehicles	88,907,313	
Secondary Examination	5,398,756	(6.1%)
Percent Intrusively Searched 1/	0.075%	
Narcotic Seizures 2/	3,949	
Illegal Entrances	1,000,000-3,000,000	
Probability of Detection 3/	approximately .33	

1 Several land port-of-entry Customs houses were polled as to the number of times per month, on average, they dismantle a vehicle in the process of a search. Table XII provides further detail.

2 Source: EPIC Report, "Drug Movement Indicators/Profile," March 1984.

3 The probability of detection is generally agreed upon by those who work in the field. INS Border Patrol managers indicate that they catch about one attempted illegal crossing for every one to three that get in, while experts on the House Subcommittee on Immigration think that the Border Patrol does better. The one to three million entrances do not involve that many individuals because of the large number of "commuters" and other multiple crossers.

Table XII

LAND TRAFFIC - VEHICLES:
INTRUSIVE SEARCHES

Port of Entry	Percentage of Arrivals Sent to Secondary Examinations	Percentage of Arrivals Disassembled
Brownsville, TX	6.4%	0.01%
Buffalo, NY	<1.0%	0.01%
Detroit, MI	12.1%	0.10%
El Paso, TX	10.0%	0.05 - 0.10%
Nogales, AZ	5.0%	<0.25%
San Ysidro, CA	<1.0%	<0.01%
Average	5.9%	0.075%

Table 8-1

DETECTION PLATFORMS AND THEIR RADAR ASSETS

Type of Platform: Fixed-Wing Aircraft (Preliminary) A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									
1	E-2C	USN	Grumman	AN/APS-125 or AN/APS-138	A/A and A/S				X S	71 73			$32M $38M	$2500/ hr	5	60	840	P-3 potential alternative platform
2	E-3 AWACS	USAF	Boeing		A/A				X				$135M	$4917/ hr	9, 6/mo		650	
3	Citation	USCS	Cessna	AN/APC-66	A/A and A/S 120° 25 (est)				X	2			$5M	$500/ hr	3	1500	9,000	4 a/c may be leased in 1985, $2.3M + $2M O&M
4	CHET	USCS	To be determined	AN/APC-66 or AN/APC-68 (see comments)	Sec No. 3					0	6-8		$4M O&M $2M for 6	$400/ hr	7+	1500	18,000	First delivery Aug. 85. AN/APG-68 would have about twice range of AN/APG-66 but have to determine feasibility of installation (sufficient primary power and cooling?)
5	P-3	USCS	Lockheed	AN/APC-63 AN/APS-80	A/A and A/S 120° 60 (est) A/S			X		1			Est. $6M first unit. Units 2-6: $11.8M to modify $14.4M O&M		14+	1500 (USCS est. 56 hr/ mo)	9,000	Total 8 a/c could be modified and in service by end FY 86

Table B-1 (continued)

DETECTION PLATFORMS AND THEIR RADAR ASSETS

Type of Platform: Fixed-Wing Aircraft (concluded)

(Preliminary)

A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									
6	P-3	USCS	Lockheed (tentative)	AN/APS-138	A/A and A/S	X				0	0	0	$25M for prototype test bed	Est. $3200/hr if leased	14+	1500	1500	Delivery Jun 86 if start Jan 85. USCS lease air frame w/ rotodome from Lockheed or provide P-3A for modification.
7	HU-25A (Falcon jet)	USCG		AIREYE (Aerojet Electro Systems)	A/S SLAR			X										
8	C-130	USCG		AIREYE feasible	A/S (A/A possible)													

Table B-1 (continued)

DETECTION PLATFORMS AND THEIR RADAR ASSETS

(Preliminary)

Type of Platform: Land-Based Aerostats

A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									
1	Cudjoe Key and Cape Canaveral	USAF	RCA	S-band coherent-on-receive only?	A/A 360° 125				X	2							5500	Tethered, power generator on platform
2	Bahama (subject to approval)	USCS	TCOM (Westinghouse)	Modified AN/TPS-63 Doppler L-band (Leased)	A/A and A/S (fast boats) 360° Estimate 150 nmi on 5 m^2 target			X					$4M Unmodified AN/TPS-63 about $3M					Tethered, powered cable, 30 kW at 1800 V Fly at 12,000 ft.
3	Elizabeth City, NC	USCS and TCOM	TCOM	Modified AN/APG-66 w/ 12' x 4' antenna	A/A 360° Estimate 70 nmi on 2 m^2 target			X		1								Tethered, powered cable, 8 kW at 1800 V Fly up to 2500 ft.

Table 8-1 (continued)

DETECTION PLATFORMS AND THEIR RADAR ASSETS

(Preliminary)

Type of Platform: Sea-Based Aerostats

A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									
1	Caribbean, 195-ft boat	USCG (lease)	TCOM	AN/APS-504, V5 in future. Possible AN/APG-66 for A/A	A/S 360 range?			X										Option to buy Jun 85. USCG has 3 budgeted and can lease another. Fly at 1800-2000 ft, spec 2500 ft.

Table B-1 (continued)

DETECTION PLATFORMS AND THEIR RADAR ASSETS

Type of Platform: Land-Based Radar (Other than FAA & NORAD Assets) (Preliminary) A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									
1	Over-the-Horizon Radar (OTHR)	DoD	Not selected	Special unit for counter-smuggling, anti-terrorist, and intelligence	S/A (primary) and S/S (boats over 70' day, 200' night) (secondary role for USCS purposes) 60° min range-500 max range-1800					0	0		Est. $60M	$6M/yr	24 hr/day			Preliminary DoD feasibility study underway, initial report due 28 Oct 84. Could be in service by end 87, end 86 possible. Complemented by E-2C, P-3, CHET, aerostats.
2	OTHR	USAF	GE	AN/FPS-1	16, same as No. 1 except 240°	3				0	1		$400M for south-looking OTHR		24 hr/day			CONUS defense, in service late 80s or early 90s.
3	ROTHR	USN	Raytheon	Prototype relocatable OTHR	S/A S/S 60° 500 min 1800 max			X		1								

Table B-1 (concluded)

DETECTION PLATFORMS AND THEIR RADAR ASSETS

(Preliminary)

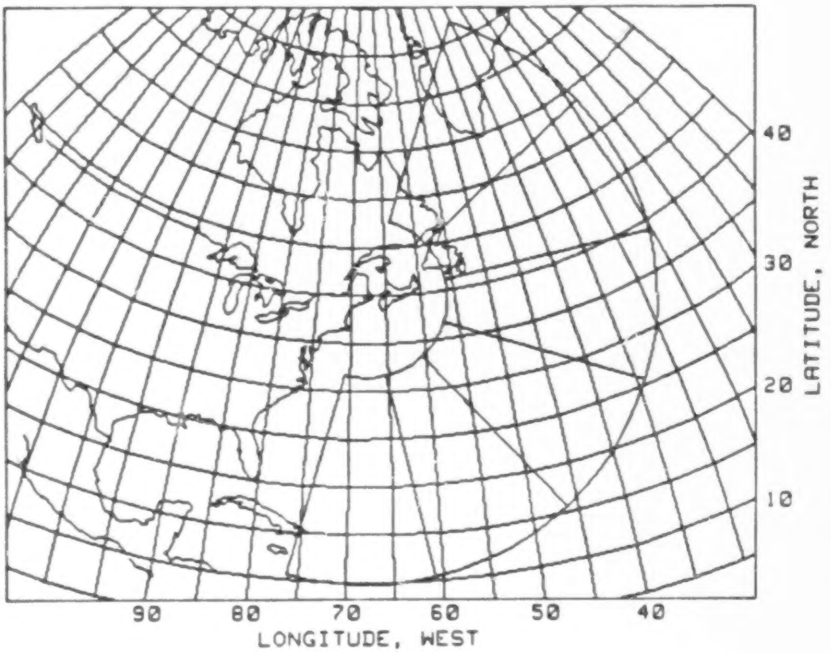
Type of Platform: Ship-Based Radar

A = Air S = Surface

Item No.	Designation	Sponsor	Contractor	Radar	Radar Function, Scan Angle, and Range (nmi)	Status				On-Hand	On Order	Options	Unit Cost	Operating Cost	On-Station Time/Sortie (Hr)	Unit Availability (Hr Yr)	Total Unit-Hours Available (/Yr)	Comments
						Proposed	R&D	Evaluation	Operational									

Figure B-1

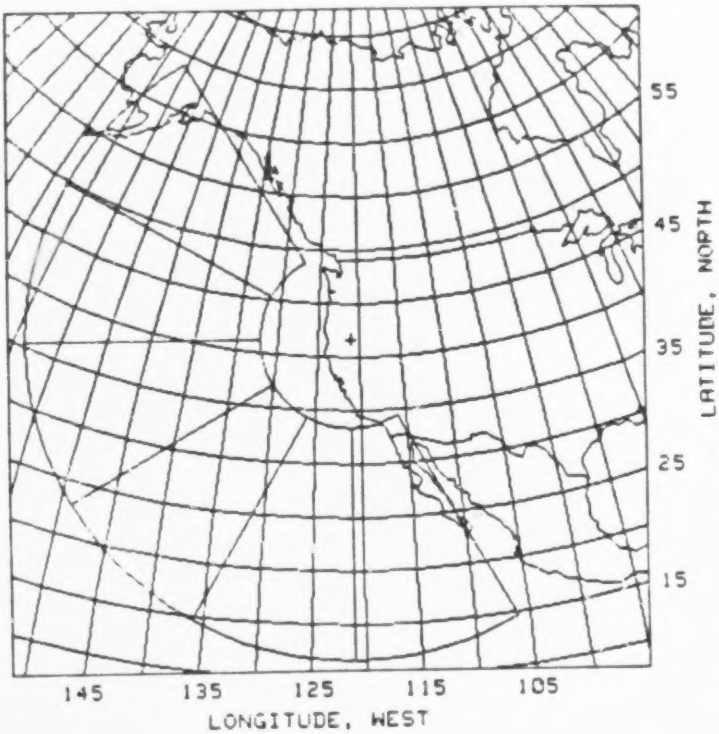
PROPOSED (APPX. 1990) USAF OPERATIONAL RADAR SYSTEM (ORS) EAST


40
30
20
10
LATITUDE, NORTH
90
80
70
60
50
40
LONGITUDE, WEST

ORS COVERAGE, THREE SECTORS, BORESIGHTS 46.5, 106.5, AND 166.5 DEG AZIMUTH ± 30 DEG FROM BORESIGHTS; RANGE 500 TO 1800 NMI

Figure B-2

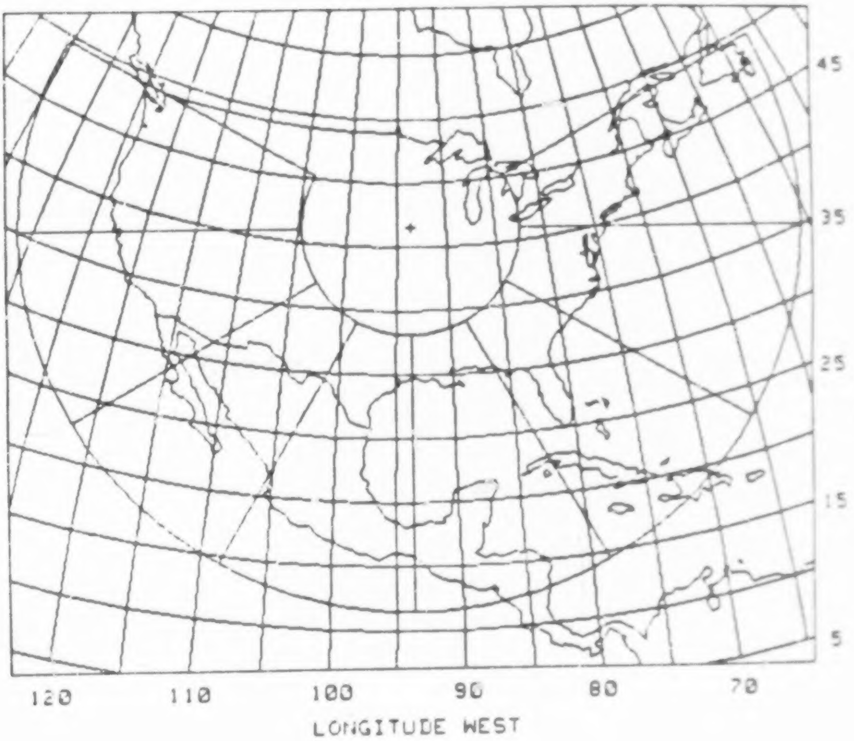
PROPOSED (APPX. 1990) USAF ORS WEST


55
45
35
25
15
LATITUDE, NORTH
145
135
125
115
105
LONGITUDE, WEST

ORS WEST COVERAGE FOR RADAR LOCATION AT 41.7 N, 121 W
SECTOR BORESIGHTS AT 150, 210, 270, AND 330 DEG
SECTOR COVERAGE ± 30 DEG; RANGE 500 TO 1800 NMI

Figure B-3

PROPOSED (APPX. 1990) USAF ORS SOUTH


45
35
25
15
5
120
110
100
90
80
70
LONGITUDE WEST

RADAR COVERAGE FROM AN OTHR SITE NEAR DES MOINES, IA
RADAR COORDINATES, 41.5 DEG N, 93.6 DEG W
SECTOR BORESIGHTS AT 90, 150, 210, AND 270 DEG
SECTOR COVERAGE ± 30 DEG; RANGE: 500 TO 1800 NMI

Mr. **Downey**. Am I correct from an efficiency standpoint that a radar capable of 360-degrees coverage is what is looked upon as an optimum?

Mr. **De Angelus**. We believe it is very desirable and we plan to address that in our 1986 appropriation funding.

Mr. **Downey**. What kind of airplanes have this capability and what other solutions might there be? Do you know offhand what planes?

Mr. **De Angelus**. I would like to ask Mr. Corcoran to address that one.

Mr. **Corcoran**. Currently the assistance we get from the military such as the Air Force AWAC and the Navy E-2C have that 360-degree capability. We do not. The long range radar in both our interceptors, and the initial P-3A we have accepted, is forward looking.

Mr. **Downey**. How much funding has been included in your budget request toward satisfying the airborne radar detection requirements?

Mr. **De Angelus**. We are requesting $60 million for fiscal year 1986.

Mr. **Downey**. How much of that is for hardware, for people and the operating costs, do you know, offhand?

Mr. **De Angelus**. There are no people included in that $60 million. The people are funded from the Salaries and Expenses appropriation. I do not have the exact breakdown.

Mr. **Downey**. So the $60 million is essentially for equipment?

Mr. **De Angelus**. Mr. Corcoran has that information available here.

Mr. **Corcoran**. Yes. The breakdown is as follows: We have $5 million for research and development for the 360-degree radar you spoke about. There is $5 million for modification of the C-12 aircraft which we are expecting to get from the Army. An additional $4.6 million in O&M money is for additional flight hours for the P-3A's, including the additional ones expected by fiscal year 1986; and an additional $1.4 million for operation and maintenance for the two Blackhawks to be added in fiscal year 1986 in addition to the current 6.

Mr. **Downey**. I do not want to hide anything from this committee or from the Customs Service because I have both an interest in drug smuggling since Long Island has become an area of increased smuggling activity, and we also happen to believe that the E-2C is a vastly superior aircraft to the C-12 or the P-3A that you are looking at; and unless you want to buy an AWAC, I happen to think that the E-1, which is designed to look down at ships at sea, is the way you want to go.

Has there been any work done on getting the Navy to sell you the older E-2's with certain modifications which can be done at reduced cost?

Mr. **Corcoran**. No, sir. We have explored that, but we think the P-3A with the research and development we are doing on the 360-degree radar will give us that type of platform.

Mr. **Downey**. Mr. Chairman, if you will just indulge me for one last question, what specific R&D do you need to do on a 360-degree radar that has not already been done ad nauseum by the Air Force and the Navy? What else is it that you want to do in terms of research and development to track ships along the ocean?

Mr. CORCORAN. The research and development is to determine how to adapt a limited sector scale fighter radar to a 360-degree surveillance radar for the P-3A. I am not an expert on the technology of it, but you have to go through the redesigning of the aircraft for air performance and also the capability of putting the radar in.

As I understand it, the speed of the aircraft that is carrying the radar also relates to its capability of detecting the target.

There are a whole lot of modifications that have to be made. You can take a 360-degree radar that may be in an air blimp or E-2C or an AWAC and it has to be modified for the particular aircraft you want to put it in.

Mr. DOWNEY. I understand. Thank you.

Mr. Chairman, as I said before, I happen to believe cuts in this agency's budget or freezes on their budget are tantamount to what Mr. Pease has suggested in the past as derogations of this committee's and this country's responsibility to properly police the borders and to deal responsibly with the problems that confront us. This is an important service. It is the oldest law enforcement agency in the United States today. It has increasing responsibilities in terms of the number of passengers, flights and ships that come into this country; and to suggest that somehow less money is going to be more effective is Alice in Wonderland, to say the least.

Mr. Chairman, I would also suggest that we need to watch closely, and not only from my parochial interest, how the Customs Agency wants to do surveillance from above since we do not need to spend a lot of additional money doing things that the Army and the Navy and the Air Force have done, as I suggested before.

I thank you for your indulgence.

Chairman GIBBONS. Mr. Russo, because you have to go to the Budget Committee meeting, we will also hear from you now.

Mr. RUSSO. I appreciate that, Mr. Chairman.

I have a couple of questions, Mr. De Angelus.

It is my understanding that the Customs Service is as much as 6 months behind in reporting steel import data to the Department of Commerce from major steel ports of entry. Is that a fact?

Mr. DE ANGELUS. I had thought we were current, Mr. Russo. I'll ask Mr. Schaffer——

Mr. RUSSO. I understand it is between 2 to 6 months behind.

Mr. SCHAFFER. I am not aware of that, but I will certainly check into it.

Mr. RUSSO. Would you report back to the committee?

Mr. SCHAFFER. We will have a written report to the committee.

[The information follows:]

STEEL IMPORT DATA REPORTING

We have reviewed the situation and have found that in cases where delays have occurred in the submission of steel import data by Customs to the Department of Commerce, they have not exceeded 30 days. We have also been told that there are delays at the Commerce Department in processing this data.

Mr. RUSSO. What data do you have as to the amount of steel imports that have come into the country in December? Do you have that data?

Mr. **Schaffer**. As we process that information it is forwarded to the Bureau of Census. The Census Bureau would have that information. We can also provide that.

Mr. **Russo**. Do we have it for January of this year?

Mr. **Schaffer**. I am not sure our records are completed. Perhaps we do.

Mr. **Russo**. I would like to find out exactly. In that breakdown I would like to find out exactly how you achieved those numbers in December. It is my understanding that the December numbers are mostly made up of November and October numbers and partly September numbers; and if that is the case, it seems to me it is going to be very difficult for the Commerce Department and the Service to be able to give us the right kind of information to see whether or not the President's voluntary trade agreements are going to be working.

Given the incentives for Custom fraud, and you know how things work, where they manipulate different products depending on how tough your inspectors are getting and what is happening at the ports, we realize that it is likely to increase again as a result of the President's program.

How can you justify the reduction in employees who detect fraud, the import specialists, inspectors, and laboratory personnel?

As I understand it, you are going to have a reduction of 900 Customs employees, including 206 inspectors and 244 import specialists. How are we going to deal with the fraud problem?

Mr. **De Angelus**. We believe, Mr. Russo, that the automated system which we are phasing in now will assume from these inspectors and import specialists the clerical burden and allow them to concentrate more on the high risk shipments. In fact, we expect that the computer system will point them to the high risk shipments, increasing our ability to detect fraud and to investigate.

Mr. **Russo**. You believe automation is going to do the job?

Mr. **De Angelus**. We are convinced of that, yes.

Mr. **Russo**. Given the sharp decline you have in Customs personnel and the information I have on the backlog, do you believe you have sufficient manpower now to enforce the President's agreement?

Mr. **De Angelus**. We have a temporary problem, Congressman Russo, as we are phasing in the automated system. We do not operate like a private industry and go out and borrow money to capitalize some of our changes. Consequently, in the short period we have to adjust to the peaks and valleys of our workload and sometimes it takes us a little while to make that adjustment.

Mr. **Russo**. Don, you can follow up on this. I am going to have to run.

Mr. **Pease**. I am trying to get you to translate what you just said. I think what you just said is that you do not have the manpower, at least in the short run, to adequately enforce the President's voluntary restraints on steel.

Mr. **De Angelus**. Well, I am sorry if that is what it sounded like. I meant to say that for any very short period it takes us time to adjust, but we are confident that in the 2 years we are talking about, the current fiscal year and fiscal 1986, that we can do the job expected of us.

Mr. Russo. It seems you only inspect 2 percent of all imported products. I have a tough time believing you are going to be able to do all this with a reduction in manpower. I guess part of my problem is that we are trying to help you do a better job in performing your responsibilities; and if you check the data, you may find that you are not current and if you are not current with the manpower you now have, cutting it back and making the transition to automation may cause a tremendous problem.

I hope you understand this committee is trying to make the Customs Service work better and help them be more efficient and do the things necessary to protect our borders, and we have some very serious problems in dealing in international trade unless our trading partners understand that we are going to be equipped at the borders to do the job of inspecting. They are going to take advantage of us because we tend to be very free and easy and allow people to come into our markets a lot easier than other countries do. So if we do not have the protection at the borders, we are not going to be successful.

So I hope that in looking at this, Mr. Chairman, we do the responsible thing and maybe help give Customs a little more dollars to do a few other things. I am sure we can find some other areas of the budget to cut.

So I thank the chairman for indulging me.

Chairman Gibbons. We have a vote on. Let us get the vote.

Mr. Frenzel. Mr. Chairman, might I inquire. I have to do something right after the vote and I might miss Mr. De Angelus.

Chairman Gibbons. We will just turn it over to you and turn you over to Mr. De Angelus right now, and then when he finishes with you, Mr. De Angelus, I will be back and we will start on you.

Mr. Frenzel. Thank you, Mr. Chairman.

Al, we are glad to have you back as usual. Since you have been with us you have had a lot of excitement about regulations, and I see in your prepared answers to some of the questions raised by the committee staff that you expect those regulations to go into full force soon.

Mr. De Angelus. The textile regulations?

Mr. Frenzel. Yes.

Mr. De Angelus. Yes, the final rule was published March 5, 1985, Mr. Frenzel.

Mr. Frenzel. That is very soon. You moved those along pretty quickly and they do represent a significant departure from previous Customs regulations, and a number of our trading partners have complained that they are violative of the multifiber agreement.

What caused you to go steaming forward on them?

Mr. De Angelus. Well, Mr. Frenzel, as was mentioned earlier by Mr. Russo, and as you are well aware, these are very complex problems. Certainly our trading partners are concerned and they have made some formal complaints. However, the domestic industry was also quite concerned. Consequently, we thought that the matter was of sufficient import that we should give it a priority handling.

Mr. Frenzel. My concern about it is that you are in effect writing trade law. What you do has a greater effect on trade flows than much of what we do and makes us a little nervous because if you do not do what is right, we stand accused for what you have done.

In my judgment the changes were extreme, and I guess there will be a significant debate about that along the way.

I am interested in knowing about user fees. As I understand it, you have not formulated concrete details for a lot of user fees that may be lurking in your fertile imagination down there.

Can you tell us what you do have in mind?

Mr. **De Angelus**. Yes, Congressman. What we are proposing is that in those areas of Customs, basically the commercial areas, the nonenforcement areas where the importing public causes the need for the service, that that service be performed on a reimbursable basis. We chose to call it user fees. For example, for each arriving air passenger on the People's Airline flight to Amsterdam, which costs $250, we are proposing to have it cost $251.40. For that $1.40 we would assure an adequate number of inspectors for processing without time delays that the people are very concerned about. We believe that it is in the interest of the Customs Service, the Nation as a whole, and the airline industry for us to move to user fees. As you will hear today, people will comment about many of the things we are doing, some favorably and some unfortunately unfavorably. People will testify today that Customs should have more of this and Customs should have more of that. Our proposal is that if those people really believe that there is a benefit and a benefitor of the service, then with relatively modest user fees we could perform those services at the level desired. Maybe it is a way of measuring people's interest in the level of services if, in fact, they have a direct financial stake rather than just being general taxpayers and tapping the general Treasury.

Mr. **Frenzel**. Do you believe you have the authority to levy these charges without congressional authority being granted to you?

Mr. **De Angelus**. No, we do not. The delay is in formulating the legislative proposal and clearing it among the other executive departments.

Mr. **Frenzel**. How about some of the other charges? I have a constituent complaint that says the yearly proprietor's fee for a class 2 importer's bonded warehouse has been more than doubled.

Do you have the authority to do that on your own motion?

Mr. **De Angelus**. Yes, we do, Mr. Frenzel. At least we believe we do. As you may recall, there was some controversy a couple of years ago back in December 1982 when we put the new system in. The old system had caused the taxpayers and domestic industry $9 million a year. We devised a new system which we believe is much more effective and much less costly. However, we underestimated the most least costly part of it, and we charged only $1 million instead of $2 million to implement the system. We believe $2 million is required and that, therefore, raises the cost from approximately $700 a year to $1,400 for a warehouse proprietor. However, that is the total cost. He knows that before he goes into the business and he knows each year he operates his warehouse. We believe that if a man is in that type of business, that while it is a doubling of the fee, it is certainly a minor cost involved in his overall business costs.

Mr. **Frenzel**. A minor cost but an irritant.

Mr. De Angelus. Absolutely.

Mr. Frenzel. Particularly when it looks like Customs is giving less service with less people, and I assume you have gone from a partial recovery basis to a full recovery basis for your costs.

Mr. De Angelus. That is correct.

Mr. Frenzel. But the average importer does not know what basis you are on and he says here is a bunch of bandits who collect normal taxes from me anyway and they have unilaterally doubled my fees just for luck. I am sure you have heard a lot more of those complaints than I have, but I think we are nervous about giving any agency of the Government the right to, in fact, levy import taxes and permits which may tend to control the entire activity. I do not know how much leeway you do have to do that, but I guess I am going to find out fairly soon and see what can be done.

Your budget looks like it provides for a few less employees this year.

Mr. De Angelus. Yes, it does. Approximately 800, Mr. Frenzel.

Mr. Frenzel. And our U.S. trade continues to grow, a large increase in imports last year, even a very nice healthy increase in exports.

How do you do it? Some kind of a magician?

Mr. De Angelus. We do not believe it is magical and I do not want to ignore the fiscal constraints that we all face, but we believe that we manage better in Customs than some others do.

If you will note, in the 800 positions, approximately 400 are operation related. The rest are administrative related. As you recall, when we eliminated them, we reduced and eliminated administrative positions, not operational positions. In fact, we converted them to operational. So basically the 887 reduction is approximately 400 to 500 administrative positions, and the rest of the positions are savings we expect and anticipate from the full implementation of the automated commercial system, the redesignation of the districts and the consolidation of various organizations.

Mr. Frenzel. Are almost all of the 400 administrative positions coming out of the regions?

Mr. De Angelus. That is correct.

Mr. Frenzel. For the long term do you need any regions?

Mr. De Angelus. There is a difference of opinion in Customs about that, Mr. Frenzel. I was in the field and a principal field officer before we had regions. I know I look very young, but I was there as a principal field officer before we had regions and I was there after we had regions before I came to headquarters. I believe that for the Customs Service of today, with it would be impossible for the Commissioner and myself to direct the activities of 27 district directors and 27 special agents in charge. So I believe that a regional function is necessary. We do not believe that we need seven regions to do it. Something less than that, five or six regional commissioners generally within the geographic area over which they control, ensuring that headquarters policy is carried out in a uniformly and timely manner out in their geographic area.

We believe that this provides an adequate span of control on the manager's position.

Mr. Frenzel. Let the record show I agree with the witness, at least to the extent he is very young looking. [Laughter.]

I have some other questions, Mr. Chairman, which I would like to direct to Customs, and I will do that privately. And I appreciate the witness' testimony. I do have a little concern.

There is a decrease in the budget. I like agencies to cut back wherever they can. There is an increase in the workload. The one effort that seems to be increased is your Air Force, which is going up by a third. I had only thought that you were trying to get rid of Shultz. I did not know you were taking over Cap's job as well. [Laughter.]

I think that we have to confer at some length on your agency. As one goes through your budget, one finds out that you are a little State Department and a little DEA and a little Air Force, and your tentacles stretch both widely and deeply. I think we are going to have to look into that a little more closely than we have in the past, but I thank you for your testimony and look forward to further discussion.

Mr. De Angelus. Thank you, Mr. Frenzel.

Chairman Gibbons. We interrupted you. You never got a chance to make a statement. Go ahead. Just bear in mind that one day we are going to call the executive's bluff on all this. We have been around here a little while. They always are cutting programs they know have to be restored and that Congress acting responsibly will be restoring them. That always helps them pile more dollars over into their favorites like the Defense Department and foreign aid without making the budget look even more unbalanced. So we get the blame for keeping the agencies going while the President gets all the credit for cutting expenditures, and that is what happened in your agency's budget.

I do not see how in the world you can operate with the kind of personnel cuts that they whacked out of your budget, but I will be glad to listen to you. But you just bear in mind I think it is a game. OMB said we have got to save a lot of money, so we put it over there in the sacred cows of defense and foreign aid, and we know that Congress will do the responsible thing and they will keep the Government operating, so that is just the way the game has been played. It has been played that way for 22 years since I have been here by both Democrats and Republicans.

You go ahead and explain to me how you are going to get along with about 800 less people.

Mr. De Angelus. Thank you, Mr. Chairman.

We appreciate this opportunity to appear before you today to present the U.S. Customs Service fiscal 1986 appropriation request of $639,102,000 and 12,531 direct average positions for salaries and expenses and $60,425,000 for operations and maintenance of the Air Program. Customs also is requesting appropriations for two newly established funds. The first is for $8 million for a forfeiture fund. For the second, we are requesting $75,000 to recover anticipated reimbursements for services at small airports.

In line with President Reagan's efforts to lower the cost of government, our fiscal year 1986 salaries and expenses appropriation request is $11,586,000 less than our requested level for fiscal year 1985. We have included $14,200,000 for program initiatives, primarily for ongoing automation and communication programs, and for improving the detection effectiveness of our law enforcement officers. Our request also includes $30,609,000 for increases necessary to maintain current operating levels.

Customs Air Programs operations and maintenance appropriation request of $60,425,000 represents an increase of $16 million above funds requested in fiscal year 1985 for program enhancements. The requested enhancements will strengthen our current and future operational capabilities. Our request includes $5 million for increases necessary to maintain current levels of operations and nonrecurring costs of $5 million.

As we have stated on previous occasions, Customs continues to adhere to President Reagan's precepts of strengthened law enforcement and better management of government resources. Our objectives in fiscal year 1986 are to achieve the following:

Improved enforcement efforts to combat those illegal activities that fall within Customs jurisdiction by the introduction of the most effective techniques;

Increased staff productivity by developing and implementing automated systems, wherever possible, in all merchandise, revenue collection, and enforcement processing; and,

Efficiencies in administration by centralizing functions, eliminating duplicative activities and unneeded paperwork, and simplifying processing procedures.

In fiscal year 1986, Customs is continuing its high priority program to reform commercial practices; in essence, how we implement the tariff laws and how we process the vast quantity of imported merchandise. The initiatives in this budget emphasize the continued development and implementation of the Customs automated commercial system, which is a key program in this effort and is radically changing the way people do business with us. When fully operational, this system will decrease processing time and reduce operational costs for both Customs and the international trade community. In fiscal year 1986, we will reallocate $6.6 million for additional refinements to the hardware and software components of the system.

We are pleased to report that Customs' drug enforcement efforts produced significant results in fiscal 1984. The President's drug strategy is working, and the amounts of heroin and cocaine we seized last year, again, set new records. Heroin seizures reached 664 pounds, up 12 percent over the previous year. These results largely reflect intensified inspections at airports, and the use of improved inspectional techniques.

With regard to cocaine, we must commend Customs enforcement groups for the outstanding results produced during the past 4 years. In fiscal year 1984, seizures were again significantly higher, reaching 27,525 pounds, an increase of 40.4 percent above the fiscal year 1983 amount of 19,602 pounds and a sevenfold increase above the fiscal year 1981 amount of 3,741 pounds. We have disrupted organized smuggling groups by taking $7.5 billion in cocaine sales off the streets and preventing the criminals from pocketing the profits.

Our efforts against the drug smugglers have been only a part of our law enforcement programs. In line with President Reagan's call to block the illegal transfer of high technology to Eastern bloc countries, Customs is implementing more effective detection and investigative methods at major ports throughout the country.

Customs continues to emphasize its efforts against fraudulent imports. These efforts have produced excellent results in terms of financial gains and prosecutions of criminals. In fiscal year 1984, Operation Tripwire accounted for 279 arrests and indictments, and 1,705 seizures with a total value of over $62 million. Based on past accomplishments, task force operations will continue to direct their efforts against illegal merchandise before it enters U.S. commerce and to investigate cases arising during intensified inspections.

The past decade has seen substantial growth in pornography trafficking. Customs is aggressively investigating pornography cases, especially where large volume dealers, organized crime, or child pornography is involved. Together with other Federal, State, local and foreign authorities, we are working to stem the flow of importation at the source countries. As a result of Customs' investigative efforts, several child pornographers have been identified and arrested. In fiscal year 1984, our intensified efforts resulted in 4,266 seizures, an increase of 122 percent above the fiscal year 1983 total of 1,918 seizures.

We believe an important part Customs' mandate is to provide the most efficient and effective operations and management at the lowest possible cost.

We are proposing to meet this objective by centralizing functions wherever feasible and, most importantly, introducing new ways of doing business. The initial step to begin this year is the centralization of virtually all administrative functions in headquarters and the regions. The functions and staff involved are not operational or enforcement in nature and do not function in the ports or districts; these are strictly headquarters administrative type functions.

Since the processing and recordkeeping of these functions are generally computer generated, our studies indicate that true economies of scale are possible by centralizing these operations. As now planned, the operations and assigned positions will be transferred to Indianapolis and to Washington, DC, to carry out all of Customs' administrative functions. To implement this centralization approach, Customs is investing some $8 million in fiscal year 1985. As for savings, current projections are for some $5 million annually.

In fiscal year 1986, we intend to build upon this initial major savings program by implementing organizational realignments.

Chairman GIBBONS. Can I interrupt?

Mr. DE ANGELUS. Yes.

Chairman GIBBONS. You are going to move to Indianapolis?

Mr. DE ANGELUS. Yes, sir.

Chairman GIBBONS. Is that a big port of entry or something?

Mr. DE ANGELUS. No, it is not a big port of entry, Mr. Chairman.

Chairman GIBBONS. Do we have any facilities there now?

Mr. DE ANGELUS. We have a small port of entry, yes.

Chairman GIBBONS. What are you putting in Indianapolis?

Mr. DE ANGELUS. We are planning to put our financial management and logistic management functions centralized in Indianapolis rather than in the Washington, DC, area. We will be moving them from the seven regional offices as well as headquarters and locating them in the central site in Indianapolis.

Chairman GIBBONS. What is the net change in employment you make by all this?

Mr. De Angelus. The net change for all administrative functions is a reduction of approximately 280 positions.

Chairman Gibbons. Will that not necessitate a little extra travel back and forth between Washington and Indianapolis?

Mr. De Angelus. Yes, it would, Mr. Chairman, but we believe the benefits outweigh the additional travel costs.

Chairman Gibbons. That is what I wanted to understand. Indianapolis is a wonderful town. They have got a speedway and things like that there. I had an uncle that used to live there. But go ahead.

Mr. De Angelus. I spent just 6 months there when I was in the service at Fort Benjamin Harrison, and it is a very lovely place. We do travel now among the seven regions. These functions are dispersed among the seven regions as well as headquarters. Our net travel should be reduced to manage this function and, in addition, by locating in Indianapolis, we have taken a large number of people away from the Washington milieu where turnover in administrative functions is rather heavy. We do not expect heavy turnover. We expected dedicated employees who will come with Customs and stay with Customs.

Chairman Gibbons. You have a big turnover now. You figure if you move out of Washington, you will have less turnover?

Mr. De Angelus. Yes, less turnover.

Chairman Gibbons. I wanted to understand that. Go ahead.

Mr. De Angelus. Thank you.

In fiscal year 1986, we intend to build upon this initial major savings program by implementing organization realignments. Customs processing and enforcement programs will be redesignated around the concept of fully operational districts. Customs laboratories will operate at two locations. Each district will be staffed by a full component of inspectors, import specialists and other enforcement officers. Entries will continue to be filed as previously, but the actual processing will be at the appropriate district office. Also, more efficient and effective use will be made of current staffing in low productivity inland, sea, northern and southern ports. Wherever possible, Customs will provide service on a cost reimbursable basis at these ports.

In fiscal year 1986, Customs is projecting a net annual savings of $8,163,000 from these management efficiencies, which will be used to support the priority programs described in our budget submission. In the outyears, we are projecting annual savings of some $29 million.

A primary concern of the Customs Service and the Treasury Department has been the effectiveness of the Air Interdiction Program as a deterrent against the smuggling of narcotics and contraband by private aircraft, a threat that has dramatically increased over the past several years. In fiscal year 1984, the value of narcotics and dangerous drugs seized by the Customs Air Program was about $1 billion.

In fiscal year 1986, Customs is requesting an increase of about $16 million for the Air Program operations and maintenance appropriation. We believe this budget will provide Customs, for the first time, with sufficient resources to begin challenging the growing air drug smuggling problem.

Included in this increase is a request for $5 million to develop a prototype air detection system and $4.6 million to increase the operational flights of the P-3A's. These enhancements will enable Customs to significantly deter and disrupt the flow of narcotics into the United States.

In closing, we wish to reiterate that Customs' mission is extremely important and operates in a dynamic environment, significant elements of which include the traveling public, the trade community, American business and the general public, and, I might add, the Congress. In fulfilling our responsibilities, we must increasingly employ sophisticated operational and enforcement techniques and a wide variety of skills and disciplines.

This concludes my introductory statement. I have submitted a more detailed statement for the record. I and my colleagues would be happy to answer any questions you may have. And if I may, I would like to introduce them now.

To my extreme right, Eugene Mach, Assistant Commissioner of Inspection and Control; George Cochran, Assistant Commissioner, Enforcement; Robert Shaffer, Assistant Commissioner, Commercial Operations; and to my extreme left, Dorothy Lynn Gordon, Acting Comptroller for the U.S. Customs Service; Richard Abbey, Chief Counsel; and Wayne Hamilton, Chief of Financial Management for the U.S. Customs Service.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF ALFRED DE ANGELUS, DEPUTY COMMISSIONER OF CUSTOMS, U.S. CUSTOMS SERVICE

Mr. Chairman and Members of the Committee, we appreciate this opportunity to appear before you today to present the U.S. Customs Service FY 1986 appropriation request of $639,102,000 and 12,531 direct average positions for "Salaries and Expenses" and $60,425,000 for "Operations and Maintenance" of the Air Program. Customs also is requesting an appropriation of $8,000,000 for the newly established Forfeiture Fund and $75,000 to recover anticipated reimbursements for services at small airports.

Customs "Salaries and Expenses" FY 1986 appropriation request represents a net decrease of $11,586,000 from the funds requested in FY 1985, and it also includes a $17,600,000 reduction due to the proposed five percent salary reduction for all Federal employees. Included in the FY 1986 S&E authorization request is $14,200,000 for program initiatives, primarily for ongoing automation and communication programs as well as for improving the detection effectiveness of our law enforcement officers; $30,609,000 for increases necessary to maintain current operating levels; and, management efficiencies and non-recurring expenses of $44,024,000.

Customs Air Programs "Operations and Maintenance" appropriation request of $60,425,000 represents an increase of $16,000,000 from the funds requested in FY 1985. Included in the requested enhancements are funds to implement a full-scale research and development program for implementing an operational 360 degree radar for use on detection aircraft; modification of C-12 aircraft, additional flight hours for the four operational P-3A aircraft; and, operation of two additional Blackhawk helicopters. The appropriation request also includes $5,000,000 for "maintaining current levels" of operations and annualization of current year approved operations. Non-recurring costs are $5,000,000.

MAJOR ACCOMPLISHMENTS

The Customs Service, once the main source of federal monies, still continues today to collect significant revenues as well as to assume the responsibility for interdicting drugs and other contraband attempting to illegally enter the country. Although the primary objective of the Tariff Act is the protection of American industry, revenue collections from its enforcement produced $12.5 billion in FY 1984, and is projected to reach $15.0 billion in FY 1986.

As usual, Customs also had a busy year processing a heavy volume of traffic and trade generated by a growing international economy. The Customs workforce cleared some 288 million persons, 6.4 million merchandise entries, up 21 percent, and more than 300 billion in cargo entering the country. In addition, about 90 million vehicles, vessels, and aircraft were processed. Projections for FY 1986 indicate continued growth and a heavy workload in the future.

Management efficiencies Customs is implementing in FY 1985 and those to be achieved in FY 1986, represent improvements in administrative, commercial and enforcement activities as well as updated approaches for achieving Customs mission. These programs, when fully developed and implemented, will improve productivity, streamline program operations, enhance organizational and functional efficiency, and abolish duplicative activities. Many of the efficiencies result from our efforts to convert labor intensive functions to more automated processing. In total, these actions will produce savings of 887 average positions and provide substantial savings in future years.

As I stated on previous occasions, Customs will adhere to President Reagan's precepts of strengthened law enforcement and better management of government resources. Our objectives in FY 1986 are to achieve the following:

> Improved enforcement efforts to combat those illegal activities that fall within Customs jurisdiction by the introduction of the most effective techniques;
>
> Increased staff productivity by developing and implementing automated systems, wherever possible, in all merchandise, revenue collection, and enforcement processing; and
>
> Efficiencies in administration by centralizing functions, eliminating duplicative activities and unneeded paperwork and forms, and simplifying processing procedures.

Customs' efforts directed toward strengthening law enforcement programs produced significant results in FY 1984. Smuggling continues as a significant national problem. We are still confronted with an illegal industry of billions of dollars and continual smuggling along all our borders.

But I do have good news to report. Through the combined efforts of Customs and the Coast Guard marihuana seizures rose by 19.4 percent, probably reflecting increased "mother" ship and air smuggling operations. Customs' heroin and cocaine interceptions have set new records. Heroin seizures in FY 1984 reached 655 pounds, up 7 percent from the previous year. The results largely reflect intensified inspections at airports, especially cargo, and the use of improved inspectional techniques.

With regard to cocaine, I must commend Customs enforcement groups for the outstanding results produced during the past four years. In FY 1982, we seized 11,150 pounds of cocaine, an increase of more than 200 percent above the previous year. In FY 1983, seizures reached 19,602 pounds, more than 400 percent above FY 1981 and 76 percent over FY 1982. In FY 1984, seizures were again significantly higher, reaching 27,499 pounds, for an increase of 40.3 percent above the previous year and a sevenfold increase above FY 1981. In terms of disruption of organized smuggling groups, in FY 1984 about $7.4 billion in cocaine sales were taken off the streets and these criminals were prevented from pocketing the profits. And, for the first quarter of FY 1985, Customs cocaine seizures are continuing at a rate of more than double the record fiscal year 1984 total.

These results, of course, largely reflect the high priority of Customs law enforcement. The nation faces two major problems at its borders. The first is massive drug smuggling, which has been with us for at least a generation and is now one of our major industries. Customs has responded by continuing its successful enforcement efforts in South Florida, along the Southwest border, and at major airports, where the major share of illegal narcotics activity is centered. In South Florida, huge sums of drug-related currency enter and leave the country daily to finance this deadly international traffic.

The second problem is critical technology illegally leaving the country. In line with President Reagan's call to block the illegal transfer of high technology to Eastern bloc countries, Customs is continuing Operation EXODUS. Furthermore, we are implementing more effective detection and investigative efforts at major ports throughout the country. To achieve this goal, Customs has developed new approaches for surveillances; improved cargo inspections directed at uncovering these illegal equipment shipments; and, improved intelligence efforts related to shipments and potential violators.

While the enforcement effort is now well on its way to achieving its objectives, Customs Service goals also include facilitation, and the reduction of the costs to the public and to the Government, of the processing of international trade. Facilitation of passenger and cargo processing is a high priority. We do not believe that every passenger, vehicle, piece of baggage, or cargo shipment must be searched. Since the vast majority of Customs transactions involve law-abiding persons and firms, Customs officers are directing their primary attention to "high-risk" passengers and cargo. It is clear to me that effective enforcement and efficient facilitation can go hand-in-hand, without contradiction or without diminishing our law enforcement.

Customs also is continuing its priority program to reform commercial practices; in essence, how we implement the tariff laws and how we process the vast quantity of imported merchandise. In meeting our goals in commercial processing, we are pushing forward determinedly with "consolidation", "automation" and "streamlining" of all applicable operations.

Simplification of forms, paperwork, and procedures will reinforce automation and help to speed up the cargo clearance process. A major project consolidating our data processing functions into a single computer environment is now in place. We feel that this will eventually permit us to dramatically improve Customs processing of imports and to implement new methods of collecting duties.

At the heart of the automation effort, is the Automated Commercial System (ACS). Today, at numerous ports, we have on-line a comprehensive data base with all the functions required for processing electronically transmitted or manually prepared entries. Therefore, the system can efficiently process any and all entries prepared by all the brokers. All revenue collected by Customs is processed through ACS, as is the preparation of a daily broker statement. Also, the system is being integrated in the operations of local port authorities and major importers. The whole importing community is cooperating in its implementing. Supplementary systems for processing Fines, Penalties, and Forfeitures (FP&F) and Bonded Warehouse Inventory (BWICS) are also completed. In summary, ACS comprises ten separate stand alone modules specifically directed to each of the major activities under the commercial system. Many of these systems are already in full operation. When fully developed and implemented the system will provide improved management information, more efficient resource use, and increased responsiveness to the business community.

FY 1986 plans

In FY 1985, Customs is planning its expansion and development of ACS and its telecommunication system as well as developing an up-to-date TECS system, applicable for today's enforcement environment.

Automated commercial systems

The $6.6 million to be spent in FY 1986 will allow Customs to continue to expedite development and implementation of the full system needed to raise productivity and continue efficient service as the workload grows. When completed, ACS will support full selectivity, determining which imports should be intensively examined and those entries with potential classification changes and increased revenue. This enhancement will pay for itself in cost savings for Customs and the importing community. In FY 1986, system development and hardware expansion for the following modules will be implemented: manifest processing, Quota, account billing, fines, penalties and forfeitures, and the Customs information exchange.

Integrated data telecommunications network

Currently, Customs has two independent telecommunications systems: one supports the Treasury Enforcement Communications System (TECS) by providing essential information to support enforcement activities; and, the other supports the Commercial and Administrative Systems associated with revenue processing. Since these networks were designed and developed separately, at different times with different missions in mind, they are incompatible for many important functions. In addition, both use technology that is now obsolete. While updating both systems will incorporate the latest technology, Customs will also consolidate both networks thereby reducing redundancy costs and improving operations. Customs is planning to build upon the funding provided in FY 1985 by reallocating an additional $2.8 million to complete the project. These funds will be used for modern telecommunications equipment such as mini-computers, packet switching equipment, telecommunication circuits and earth station antennas.

TECS II development

The thrust of TECS II Design and Development is to build a comprehensive enforcement data base system whose underpinnings are state-of-the-art hardware, software and data base management systems. All current TECS users will contribute their expertise to the design of TECS II and will, therefore, have firsthand experience with TECS II as it evolves. This system will provide for the expansion and integration of the existing automated enforcement efforts such as Operation EXODUS, the Treasury Financial Law Enforcement System and commercial fraud, as well as other enforcement efforts. This initiative will afford Customs the flexibility to meet the numerous information requirements of today's Customs enforcement program. The $4.0 million investment will provide upgraded assistance and support to the ten enforcement agencies in and outside Treasury using the system.

Proposed management efficiencies

As stated in my previous appearances before this Subcommittee, other Congressional groups, and business and industry groups, I believe an important part of my mandate as Commissioner of Customs is to bring to Customs the most efficient and effective operations and management possible at the lowest possible cost. At this time, when the entire federal budget must be closely monitored to eliminate excessive and duplicative costs, and significant budgetary reductions are required, as this Sub-Committee is well aware, this goal becomes the highest priority for all agency managers. And, I believe, Customs is no exception and must shoulder its full share of the cutbacks.

For this year and in FY 1986, I am proposing to meet this objective by expanding upon our gains in automation by centralizing functions wherever feasible and, most importantly, introducing "new ways of doing business". The initial step in the proposed series of initiatives is the centralization of virtually all administrative functions within Customs, which will be started and completed during FY 1985. What do we mean by centralization of administrative functions? Currently, the account, payroll, personnel, management analysis, etc. functions are spread throughout Customs; there is a large Headquarters component for each activity and related functional groups in each of the Regional offices. The staff involved are not operational or enforcement personnel and none function in the ports or districts; it is strictly a Headquarters function.

Since the processing and recordkeeping of these functions are generally computer generated, our studies indicate that true economies of scale are possible by centralizing these operations. As now planned, all positions allocated to these operations in our Headquarters and Field offices will be transferred to a single location, Indianapolis, Indiana, to carry out all of Customs' administrative functions. To implement this centralization approach, Customs is investing some $8 million in FY 1985. As for benefits, current projections are for some $5 million annually.

In FY 1986, we intend to build upon this initial major savings program by implementing organizational realignments. Customs processing and enforcement programs will be structured around the concept of fully operational redesignated districts. Except for the Customs laboratories which will operate independently in two locations, each district will be staffed by a full complement of inspectors, import specialists and other enforcement agents. The entries will continue to be filed as previously, but the actual processing will be at the appropriate district office. Also, more efficient and effective use will be made of current staffing in low productivity inland, sea, northern and sourthern ports. Wherever possible, Customs will provide service on a cost reimbursable basis.

In FY 1986, Customs is projecting a net annual savings of $8,163,000 from these management efficiencies, which will be used to support the priority programs described in our budget submission. In the out years, we are projecting annual savings of some $29 million.

REPORT ON CUSTOMS ENFORCEMENT AND OPERATIONAL PROGRAMS

Inspection and control

Customs Inspection and Control program processes persons and cargo, and clears carriers, for both revenue and enforcement purposes. Customs efforts to improve enforcement of pertinent laws and regulations and expedite processing of persons and goods will continue in FY 1986. Our objective, despite resource constraints, is to achieve a balance of economical processing while still maintaining full service.

Customs will continue to meet the challenge of a growing workload while improving overall effectiveness through the expanded utilization of automated systems, selectivity systems and other innovative techniques. Increasingly selective and automated inspectional techniques will enable Customs inspectors to concentrate their efforts on the "high-risk" passengers and cargo while allowing the predominantly law-abiding transactions to receive minimal attention. We will continue to streamline cargo processing through the use of automated technology that will improve our ability to facilitate the entry of merchandise without weakening our enforcement posture. Our enforcement efforts will be enhanced through the use of fully implemented selectivity systems. Our special terms of inspectors, equipped with detector dogs and the best possible intelligence we can provide will continue to concentrate on high-risk cargo. These teams have already established significant cost-benefit ratios with noteworthy narcotics seizures from cargo and baggage. We will expand their use, increase their expertise, and improve the equipment available to them to achieve even more significant results in FY 1986.

Passenger processing

As in previous years, Customs processed approximately 290 million persons entering the United States, of which almost 30 million were air passengers. Although air passengers constitute approximately 10 percent of the total number of persons entering the country, they require a disproportionate share of Customs resources due to the limited facilities available and the substantial crowding during processing. The problem is intensified because flight arrivals at airports are concentrated within certain time periods and the expansion of facilities to meet the growing workload is minimal.

To meet these greater demands and insure that its workload is efficiently facilitated while full enforcement is maintained, Customs has developed and implemented new higher speed processing systems tailored to accommodate the physical configuration and threat level of each airport. These processing systems allow the rapid processing of law-abiding travelers and the more efficient detection of suspected violators.

One of our major initiatives for FY 1986 will be regulatory changes to private aircraft and small boat reporting procedures. Under the proposed rulemaking, reporting requirements for private aircraft considered as a high risk will be made more stringent, and detailed justifications will be required for overflight exemptions. In addition, more stringent reporting requirements are being considered for small boats.

The enforcement aspects of passenger processing are being reinforced by the use of inspectors trained in new observational techniques, development of walk-through narcotic detection devices, passport "readers", and fiber optics inspection devices for more quickly inspecting inaccessible areas in aircraft and other vehicles. Where available, these new techniques were very useful in carrying out our special responsibility of handling security and visitor processing during the 1984 Summer Olympic Games in Los Angeles. In support of this program, in FY 1986, Customs will be spending $300,000 to acquire 57 fiber optics devices which will be deployed to critical smuggling locations.

Cargo processing

Customs is continuing to streamline its efforts in the cargo processing area. These efforts are aimed at facilitating the flow of legitimate cargo through our air and sea ports while focusing emphasis on suspect shipments. In order to speed the flow of merchandise, we are expanding existing cargo selectivity and enhancing our automated cargo processing systems. The most significant innovation has been the expanded and enhanced Automated Cargo Clearance and Enforcement Processing Techniques (ACCEPT) system. Rigorous system testing showed that regulatory and enforcement efforts could be improved and cargo expedited by intensively examining only selected shipments identified by automated intelligence as high risk. Customs ACCEPT is now in operation at 31 major ports, and 11 additional sites will be implemented in FY 1985. The entire processing and inspection operation is directed by a central-site computer. At the same time, a manual version of the system, previously developed for use at small to medium-sized ports, will be installed at additional locations. The enforcement aspect of ACCEPT was also strengthened by integrating it with the Customs Automated Cargo Transaction Intelligence System (CACTIS), which provides background data on each shipment.

In the future, ACCEPT is to be incorporated into the Automated Commercial System, which will control processing of cargo from its arrival at the docks or airports until release to the importer. Until that system is fully operational, expansion of ACCEPT as a stand alone system will continue at major ports.

Contraband Enforcement Teams

Contraband Enforcement Teams (CET) are reinforcing traditional inspectional operations. These teams gather and disseminate intelligence, perform input document review, and analyze and search suspect cargo. Whenever violations are detected, the merchandise, drugs, contraband, and items in violation of currency reporting and export laws are seized. CET capabilities will be bolstered by combining their search efforts for drugs in cargo with those of the Canine Teams. As a result of improved intelligence gathering and dissemination, the CET teams in the future will be capable of more specific targeting of potential illegal activities, which we believe will result in more significant seizures.

Tariff and Trade Program

The Tariff and Trade Program is responsible for appraisement, classification, duty assessment and collection on entries of imported merchandise, as mandated in the Tariff Act of 1930. Related and equally important functions include verification of import statistics; administering national trade policy by monitoring quotas, steel import restrictions, and various trade agreements; and enforcing merchandise admissibility for over 40 other Federal agencies and 400 related laws.

Improvements in the complete range of tariff and trade operations are continuing and an indepth review of the merchandise processing system is underway. Our goal is to reduce the burden on the importer, especially the costs of doing business with Customs, while insuring that Customs maintains required services even with increased merchandise imports. I am pleased to report that development projects begun in FY 1983 became operational early in FY 1984. A brief description of these innovations is included to provide you with some insight into the new business methods Customs has implemented.

Automated commercial system

Efforts to automate Commercial operations are continuing with the implementation of additional Automated Commercial System (ACS) Modules, including bonds, manifest processing, entry selectivity, and interest on bills. ADP equipment linking field operations to the national computer and an automated interface with importers, carriers, and other agencies will be implemented.

ACS is now processing merchandise entries, revenue collections, entry liquidations, and an increasing number of broker transactions. On the commercial side, ACS is selectively directing inspectors to merchandise requiring examination and import specialists to classification or value changes. As foreign trade rises, proper inspection, examination valuation, and classification are needed to ensure that all duties are collected. In FY 1986, $6[illegible] million will be used to develop an integrated data base, permitting more timely and accurate management information, and increased employee productivity. Refinements to hardware and software components will be implemented and the following modules will be developed: manifest processing, Quota, In-bond, Fines, Penalties and Forfeiture, and the Customs Information Exchange.

Automated interface with broker, importer and port authority computers is a key feature of the system. Currently, a substantial percentage of the entry summaries presented to Customs are prepared on broker computers, and that number is expected to grow by 1986. Customs views this as a unique opportunity for both the trade and Customs to work together.

Selectivity criteria, which also is important for both cargo examination and import specialist review, will be maintained in a unified data base. The system is fully operational and will be capable of identifying the types of review required by the import specialist. As is common in this type of processing, random sampling will maintain system integrity.

Tariff and Trade Program participation in Customs overall enforcement effort includes the final operational testing of the wind tunnel narcotics detector and the expansion of import specialists' role in fraud teams, special analytical teams and in assessment of penalty cases. Of particular interest, the laboratory is supporting the Fraud Program by increased sampling analyses and through the use of sophisticated technology. This has increased not only the revenue collected but also the collection of fines and forfeiture actions. In FY 1986, Customs will be purchasing and installing 10 wind tunnels (Narcotic Detection Systems) at major airports. The cost is $500,000. To provide full coverage at all airports, 200 wind tunnels would be required.

These innovations, and perhaps others, will pay increasing benefits in the future and will be the means for eliminating unnecessary paperwork, simplifying processing methods, and, best of all, making the importation of goods and payments of duties a more businesslike operation.

Air Program

A primary concern of the Customs Service and the Treasury Department has been the effectiveness of the Air Interdiction Program as a deterrent against the smuggling of narcotics and contraband by private aircraft, a threat that has dramatically increased over the past several years. In FY 1984, the value of narcotics and dangerous drugs seized in the Customs Air Program amounted to approximately a billion dollars.

In an effort to most effectively respond to this serious problem, Customs air operations have adopted a strategy of concentrating air personnel and equipment in high-threat areas and using them in conformance with the detection, interception, and tracking methods developed specifically for the interdiction operations confronting Customs air units. Air operations use strategic and tactical intelligence for selecting optimum times and places for deploying interdiction units. Detection systems identify suspect aircraft and direct apprehension helicopters and ground support units to the precise location to capture the smugglers.

In FY 1986, Customs is requesting $60,425,000 for Air Program operations and maintenance, an increase of $16.0 million over FY 1985. I believe this budget will provide Customs, for the first time, with sufficient resources to begin challenging the growing air drug smuggling problem.

The capabilities of Customs air units will be greatly enhanced in FY 1986. Each unit will include high speed jet interceptors equipped with radar and Infrared Detection Systems, long-range tracker aircraft, high performance helicopters and single and multi-engine support aircraft.

The program is dependent upon effective detection of smuggler aircraft. Currently, we use airborne and land-based radar to track smugglers and guide our own aircraft. The funding for FY 1986 will support a stationary radar-equipped Aerostat in the Bahamas, which will greatly expand our detection coverage. In addition, four fully equipped P-3A aircraft will be operating along the Southern border.

Customs also has enhanced its effectiveness to respond to the anticipated increase in smuggler detection. Implementation of strong centralized management of the program and establishment of east and west Regional Operations Control Centers have resulted in better control and flexibility in responding to the shifting smuggling threat. A full complement of tracker/interceptor aircraft will be acquired in FY 1985, and all will be fully operational in FY 1986. In support of these operations, Customs will increase its high-speed helicopter fleet for more effective apprehensions.

The additional $16.0 million requested for FY 1986 will enhance Customs' current and future operational capabilities. Based on a detailed study of our detection capabilities, Customs is requesting $5 million to develop a prototype air detection system centered around a 360 degree radar with a requirement for detection of up to a five meter target at a range of 100 miles. This system will certainly increase the detection capabilities of appropriate long-range aircraft. Furthermore, an additional $4,600,000 is requested for extending the operational flights of the P-3As, which should increase smuggler detection. Two other enhancements are: $5,000,000 is requested for modification of the C-12 aircraft to be transferred from DOD; and, $1,400,000 is requested for operation of two new Blackhawk helicopters acquired by Customs.

Marine Program

In conjunction with the Air Program, Customs Marine Program protects the sea approaches to the nation's borders. Confronted with similar growth in its smuggling problem, the program now has 118 operational vessels, ranging in size from 15 to 60 feet, stationed at 60 locations. Also, Customs newly developed operational approach includes ten marine modules, all of which will be operating by the end of FY 1985. These vessels are used for surveillances, waterside raids, intelligence gathering, and interdiction. Today's interdiction units confront large-scale smugglers using "motherships", stashes on off-shore islands and "air drops". Recent seizures indicate that major smuggling by vessel is still active in the Southeast and Gulf Coast and is increasing along the Pacific, Mid-Atlantic and New England coastal areas.

To counter the threat of smuggling by private and fishing vessels, the successfully tested Marine Enforcement Modules will be stationed in ten critical smuggling locations. Each module will consist of specially trained personnel and state-of-the-art marine equipment. Each team will be responsible for developing tactical information on smuggling in its local area and for interdicting marine smugglers. In addition, in order to combat smuggling at major seaports, Customs officers will develop information targeting specific persons, groups and vessels and conduct intensive vessel searches to locate concealed narcotics.

Customs established two marine enforcement modules in FY 1984 with existing resources and made maximum use of seized and forfeited vessels to equip the modules. Exchange/sales were used to obtain the high-speed interceptor boats needed. Information developed through the module contributes to a more reliable and responsive intelligence network and results in more arrests and seizures of contraband. We anticipate establishing additional marine modules. One will be located in New York and others are planned for Key West, Miami, Key Largo, West Palm

Beach, Galveston, and New Orleans. Establishment of these marine modules will greatly improve our enforcement results, significantly increasing seizures and arrests.

Investigations

The Customs Service investigates violations of Customs and related laws. Included under this broad mandate are currency, fraud, export and international enforcement. In each program targeting depends heavily upon the development and collection of intelligence. In accomplishing these investigative tasks, during the past year, several major enforcement objectives were emphasized.

Organized Crime Drug Enforcement (OCDE)

A Presidential Drug Task Force was established in FY 1983 and is now located throughout the country. Customs participates with other Federal law enforcement agencies in these task forces. The financial investigations focus on smuggling groups responsible for the laundering of large sums of money. We believe this program is a major step in assuring the success of the President's goal of disrupting organized crime throughout the country.

During FY 1985, the task forces are expanding to include Miami, the 13th core city. Customs is requesting $2.2 million in supplementary funds to deploy 30 Special Agents and required support in Miami. Our experience indicates that this task force will produce significant results against large-scale smuggling groups operating in the area.

In FY 1986, Customs plans to continue with current commitments of resources to the Presidential Organized Crime Drug Enforcement Task Forces. These specialized investigative task forces focus on large-scale drug smuggling organizations, approach each target and simultaneously exploit the financial, internal conspiracy and interdiction/smuggling elements of each criminal organization. To date they have achieved excellent results. In FY 1984, cases involving Customs participation resulted in 727 indictments, 860 arrests; 277 convictions; $33.7 million in U.S. currency and property seizures; and, seizures of 524 pounds of cocaine and 26.4 pounds of heroin.

Fraud Program

For several years, Customs has emphasized its fraud efforts against unauthorized steel, textile, wearing apparel imports, drawback, and trademark and copyright violations. These efforts have produced excellent results in terms of financial gains and prosecutions of criminals. Also, domestic industry and jobs were protected from unfair and illegal international trade practices. In FY 1984 Operation Tripwire, which is the designation of our special emphasis against fraudulent imports, accounted for 279 arrests and indictments, and 1,705 seizures with a total value of over $62 million.

In terms of specific cases, Customs' emphasis on commercial fraud investigations has produced promising results. A typical case is a New York coffee broker, who decided to settle a criminal and civil suit involving false entry of coffee from Central America, after being confronted with an intensive Customs investigation. The case resulted in a $3.3 million gain for the U.S. Treasury.

As reported for the past several years, Customs is looking very carefully at all steel imports. In a recent case, this paid off in 11 indictments for overvaluation and circumventing the Trigger Price Mechanism. Our intensive inspections and investigations of fraudulent textile imports have produced 106 seizures, valued at over $9.0 million so far in fiscal year 1985.

Based on past accomplishments, task force operations in FY 1985 will continue to direct their efforts against illegal merchandise before it enters United States commerce and to investigate cases arising during intensified inspections. The task forces will focus on high risk importations at major ports to assure continued high quality arrests, major revenue recoveries and to present a visible deterrent. In addition, the Fraud Investigations Center will be steadily expanded to improve data acquisition, intelligence analysis targeting and trend analysis.

A significant improvement in Customs effectiveness will occur when the expanded capability to target violators, by correlating commercial, financial and economic data using ADP systems, within selecting "high-risk" areas, is implemented. To this end, we are using integrated functional teams in high-activity areas to obtain intelligence and enforcement effectiveness.

Financial Law Enforcement Program

Our investigative attack on criminal organizations under provisions of the Bank Secrecy Act and through their financial transactions has paid excellent dividends in terms of its impact on the largest smuggling groups operating in this country. Multi-agency investigative and prosecutorial teams, operating under the leadership of the local U.S. Attorney, are currently active in cities with large-scale currency movements and those cities in the forefront of top-level drug trafficking and money laundering.

Our Financial Law Enforcement Center (FLEC) is the clearing house for all financial data. The Center analyzes the financial characteristics of criminal markets and assists in developing useable strategies for exploiting criminal financial business practices. Needless to say, the Center is also the source of intelligence, both domestic and foreign, developed and adapted for the investigative field units. During Fiscal Year 1984 FLEC identified 1,700 individuals and 500 companies who are suspected of laundering some $2 billion.

Operation Exodus

Operation Exodus combats illegal exports or equipment, computer parts, classified defense items, and lasers. In addition, and equally serious, is the illegal transfer of technical data on research, development, and manufacturing. Our job is not only to detect these shipments, but also to punish the individual violators. Ultimately, if we are to be successful, we must discourage the activities of the manufacturers, overseas intermediaries, and foreign operatives. I am pleased to report that we are receiving the strong support of American industry in this effort.

Customs' efforts in this program in Fiscal Year 1985 will focus on targeting illegal exports while minimizing the impact on legitimate trade. Expanded use of specifically targeted enforcement operations concentrating on highly selective critical exports, increased foreign information, and ADP generated analytical intelligence are critical factors for improving overall effectiveness.

In FY 1984, Exodus teams located at major ports made 1,459 seizures. Subsequently, 663 major investigations were accepted for prosecution; and Customs officers were responsible for 354 indictments, 258 arrests and 136 convictions throughout the year. In FY 1986, a wide range of enforcement initiatives will be implemented: additional covert operations; an expanded munitions control program; enhanced liaison with the intelligence community; increased foreign cooperation; and, support and assistance to foreign governments in their own conduct of covert operations directed against Exodus violations.

Pornography

The past decade has seen substantial growth in pornography trafficking. Customs has characterized pornography as a problem of prime concern and has stepped up the level of enforcement in this area. We are aggressively investigating pornography cases, especially where large volume dealers, organized crime, or child pornography is involved. Since pornography is smuggled into the United States chiefly through the mails, we have a vital role in curbing the importation of pornographic materials and seeking prosecution of violators of Customs and related laws. To accomplish this, Customs, together with other Federal, state, local and foreign authorities, is working to stem the flow of importation at the source countries. As a result of Customs investigative efforts several child pornographers have been identified and arrested. In FY 1984 our intensified efforts resulted in 4,300 seizures, an increase of 120 percent above FY 1983.

Conclusion

In closing, we wish to reiterate that our basic mission is the collection of revenue and enforcement of Customs and related laws. Our mission is important and operates in a dynamic environment, significant elements of which include the traveling public, the trade community, American business and the general public. Customs, in fulfilling its responsibilities, must increasingly employ sophisticated operational and enforcement techniques and a wide variety of skills and disciplines.

In FY 1985, Customs will continue its reform in commercial merchandise processing as well as expand on its administrative improvements. Wherever possible, selective approaches supported by automation and reduced procedural requirements will be implemented. In each case, we are attempting to speed up the processing times. As described earlier, we will be working closely with the importing community to insure that the planned operating system meets their needs as well as our own. Similarly, we will be introducing more efficient administrative support throughout Customs, particularly for operational programs. There is an ongoing review of all administrative functions in order to eliminate excessive overhead and duplicative activities.

Today, I have outlined a blueprint of future directions and of improvements recently implemented. In FY 1986, we should begin to see the results of these efforts as many of the innovations become fully operational.

This concludes my introductory statement. We are available to discuss the details of the request and answer your questions and those of the Subcommittee Members.

Chairman GIBBONS. Thank you, and we thank all of these fine people for coming with you this morning.

Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

Let me just go through your testimony, Mr. De Angelus. What is your total budget request for this year compared with last year?

Mr. DE ANGELUS. It is $639 million compared to $650 million for last year not including the air program. The air program for the current fiscal year is funded at $44 million. We are requesting $60 million for fiscal 1986.

Mr. PEASE. So if you combine those you are asking for roughly the same amount as you did last year?

Mr. DE ANGELUS. I think that is correct, yes.

Mr. PEASE. Does your budget assume a 5-percent reduction in salaries of your employees?

Mr. DE ANGELUS. Yes, it does. We have incorporated that, Mr. Pease.

Mr. PEASE. You request 12,531 direct average positions. How many was that last year?

Mr. DE ANGELUS. Last year it was 13,418.

Mr. PEASE. Tell me about this $8 million forfeiture fund. What is that about?

Mr. DE ANGELUS. The Congress established a fund for the U.S. Customs Service as well as one in the Department of Justice into which would be deposited the proceeds from seizures and forfeitures. Over the past years many of the seizures, for example, vessels, aircraft, and vehicles, during the forfeiture process remained for much more than a year in Customs' custody, and were very expensive to store and maintain. Consequently, we have actually in many instances lost money out of Customs appropriation to pay for the expenses of storage which were not recovered upon the sale. This new legislation establishes a fund with an authorization cap of $10 million from which Customs could draw to reimburse itself for the expenses of processing the seizures and forfeitures as well as to pay for converting these assets to Government use if that is deemed necessary or worthwhile.

Mr. PEASE. So this is to expend a part of the proceeds from the sale of forfeited items for the expense of storing them and selling them?

Mr. DE ANGELUS. Correct. Rather than deposit them into the general fund.

Mr. PEASE. You mention in the last paragraph on the first page: "Our request includes $30 million for increases necessary to maintain current operating levels."

Mr. DE ANGELUS. That is correct.

Mr. PEASE. Where does that money go if your salaries are going to be cut 5 percent?

Mr. DE ANGELUS. I am sorry. Where does that—how are we allocating that money?

Mr. Pease. Yes. Why do you need $30 million more to maintain current operating levels?

Mr. De Angelus. We need it to cover inflationary increases, and annualization of some previous year costs.

Mr. Pease. Customs air program, $16 million more. Is there some capital involved or is that all just operations?

Mr. De Angelus. No. That is broken down into $5 million for research and development to try to engineer the 360 degree radar into Customs' aircraft or aircraft on loan to Customs from the military, $5 million for modification of C-12 aircraft which DOD is providing to the Customs Service, $4.6 million for additional flight hours for the P-3A's which the DOD is providing to the Customs Service and $1.4 million for operation and maintenance of two additional Blackhawk helicopters which DOD is again providing to the Customs Service.

Mr. Pease. We are talking now about your Customs air program in that paragraph. What is the operating cost of your Customs air program, operations, and maintenance?

Mr. De Angelus. For the current fiscal year it is approximately $44 million, Mr. Pease.

Mr. Pease. And your request is for $5 million for increases necessary to maintain current levels of operation. As I understand it, fuel costs are going down and your personnel costs will be going down by 5 percent. What is it that requires an increase of 10 percent or more in your operation costs?

Mr. De Angelus. If I may ask Mr. Corcoran to answer that, I know that it is a correct answer. I just do not know the details.

Mr. Corcoran. We are expanding our hours of operation. For instance, on our P-3 flights we are only funded to operate about 60-some hours a month, where with this additional money we are increasing the P-3 operations to about 90 hours a month, and this would be true with all our air modules. We operate approximately 16 hours a day in Miami, but in other air stations it is only about 8 hours a day. So it is an expansion of our coverage.

Mr. Pease. So essentially the money is not going to maintain current levels but rather to expand your operation?

Mr. De Angelus. If I may explain part of that, part of it is for additional operating hours, but part of it is that the first P-3A only came on board in early October for testing. More P-3A's are coming on board in August and September. So they will not have operated a full year. It is to annualize the full year cost of partial operation in fiscal 1985.

Mr. Pease. Fine. I am interested in your testimony that the President's drug strategy is working and the amounts of heroin and cocaine seized last year set new records. Your seizures are up 12 percent in heroin, 40 percent in cocaine. Is that right?

Mr. De Angelus. That is correct.

Mr. Pease. Can we put that in perspective? Is the heroin, the total amount of heroin coming into this country stable? Is it increasing or decreasing?

Mr. De Angelus. I believe that the Director of the Drug Enforcement Administration testified that the heroin is relatively stable. However, cocaine is increasing.

Mr. **Pease**. Do you have any idea by how much cocaine traffic is increasing?

Mr. **De Angelus**. We know that it is increasing by very large amounts, Mr. Pease.

Mr. **Pease**. I am interested that this week both Time and Newsweek have cover stories on cocaine traffic coming into this country, and it strikes me that it is possible for you to be increasing your seizures each year in both heroin and cocaine and still falling behind, so that the seizures still might represent a smaller percentage each year of the total coming in. If that is the case, that would not constitute a successful program, would you agree?

Mr. **De Angelus**. I would agree that we may not be getting a larger portion of the traffic. I would disagree that we are not becoming more and more successful. I believe that we are hurting criminal organizations and not just a casual entrepreneur that is engaged in the cocaine or marijuana trade as differentiated from the heroin trade. I believe with the increases in the Air Program we will become even more successful.

It is true that cocaine certainly is increasing. We expect that we will be increasingly more effective against that traffic in Turkey. People are taking it especially with the seizures and forfeiture of assets gotten from those type activities.

Mr. **Pease**. Do you see a leveling off or a decline in the amount of cocaine coming in as a result of your enforcement efforts? Do you see a possibility of that?

Mr. **De Angelus**. I believe the official forecasts are for a continuing increase over the next couple of years, Mr. Pease.

Mr. **Pease**. Does it alarm you that this is likely to happen? Would not your response be to say we need more resources to deal with that?

Mr. **De Angelus**. Yes, it would, Mr. Pease, and it does alarm me. However, we have got to put it in perspective with our other needs. Just as I do at home with my own needs or perceived needs, we have to operate somewhere close to our income. Unfortunately, I have never been able to do it at home, and I guess I am a good guy to be in the Government because we have not been doing it so well in the Government either.

Mr. **Pease**. I admire your frankness.

Mr. **De Angelus**. I not only enforce the law, but I believe in the law, Mr. Pease.

Mr. **Pease**. Last year your testimony gave us in some detail where the positions are going to be reduced. You are going to have 900 fewer positions. Can you outline for us again what you are going to get rid of?

Mr. **De Angelus**. Yes, I will. We plan reductions of 206 inspector positions, Mr. Pease, and 244 import specialists. Of these positions, 111 inspector positions will be converted to reimbursable positions, and some positions are presently we hope vacant. So we will not actually be losing people. Other reductions planned are: 10 clericals, clerk-typists, secretaries, stenographers, and 7 other clerks, 45 customs aides, approximately 50 laboratory employees, 263 regional and district employees, meaning administrative and management types rather than operational, 19 investigative support employees and 30 headquarters positions as well as, I am sorry, part-time positions equivalent to 13 work-years.

Mr. **Pease**. Your position is, again, that you can do a better job with fewer inspectors and import specialists?

Mr. **De Angelus**. Well, of the 887, Mr. Pease, 450 are inspectors and import specialists and most of the inspectors will still be on line, just reimbursable. The rest are administrative and management and clerical types. We believe that the institution of the automated systems will actually make our employees more productive and allow us to permit the computer to do the more routine tasks and allow them to concentrate on the higher risk tasks, and we honestly believe it will be more productive.

Mr. **Pease**. As you know, our merchandise trade deficit last year was $123 billion. Given that trade deficit, would it not make sense to you for us to accelerate our enforcement efforts to at least stop the illegal imports coming in?

Mr. **De Angelus**. Certainly there are illegal imports coming in that we do not catch. The question is if any increase, or what magnitude of increase, would allow us to be more effective. We do not expect that we ever have caught 100 percent even when we had relatively better staffing levels. We believe that given the climate and our management initiative that we are about as efficient as one could expect us to be.

Mr. **Pease**. How many positions for inspectors and import specialists and the hands-on people at the ports are currently unfilled?

Mr. **De Angelus**. I do not know that figure right now, Mr. Pease. We can certainly supply it for you.

Mr. **Pease**. Can you give me a rough figure?

Mr. **De Angelus**. Approximately 325 at this time.

Mr. **Pease**. Why would you let 325 authorized slots for which money has been appropriated go unfilled?

Mr. **De Angelus**. There are a number of variables in our appropriation and we have to react to them to be certain that we come out even at the end of the year. Therefore, we have taken a number of initiatives to insure month by month we will not exceed our appropriated amounts by September 30.

Mr. **Pease**. Mr. De Angelus, I am frustrated and unhappy as are a lot of other Members about our efforts in international trade and the position the administration takes, which I understand is probably thrust upon you, that we ought to decrease our enforcement personnel at the same time that we are having greater and greater trade problems. I am especially interested in the President's steel program which he agreed to last fall. If that is going to work it is going to require efforts on the part of the Customs Service, and I would hate to think that we have a program on paper in place to help the American steel industry that would not be successful or not completely successful because you did not have the personnel to carry out the program.

You mentioned before that you do not expect to have enough personnel to do that in the short term, that during 1985 and 1986 you will, but there is a lot of time between now and the end of fiscal 1986. What can you do about that?

Mr. **De Angelus**. Well, we do make adjustments as we detect the problems. I do not believe that we have a problem in processing the steel reports to the Department of Commerce. If you would like some detail, Mr. Corcoran can tell you about a number of things we are doing in the steel area and a number of successes which we have had, which we think will deter violators from performing more of this type violation.

Mr. **Pease**. All right.

Mr. **Corcoran**. We have initiated several steel task forces. As to your concern regarding manpower, since 1984 we have increased the number of people who work on our criminal fraud cases by establishing 41 fraud teams, which add manpower, agents, import specialists, and some auditors and inspectors. These 41 teams in our major ports bring additional people to address specific violations. In steel alone we have had task forces in Detroit, Portland, Los Angeles, Houston, Newark, and New Orleans. As a result we have had 75 major steel investigations ongoing, with some major significant results. I can point to a couple of cases. In the Daewoo case, involving Korean steel, a guilty plea to 22 counts was received resulting in $215,000 in criminal fines. Multimillion dollar civil penalties are still pending in that case.

We have another case of Contractor Steel in Detroit, which was originally referred to us, interestingly, by Congressman Dingell. We found that they had removed markings illegally from imported steel. In another case the Thyssen Steel Co. pled guilty to two counts of criminal violation and was fined $20,000. In addition, they paid civil duties and penalties of $3.2 million.

Mr. **Pease**. If I can interrupt, I am interested in those examples and I am pleased that you have examples of that kind. I am afraid I am taking too much time, so I will yield back my time, Mr. Chairman, but I would like to submit for the record on behalf of Mr. Downey a couple more questions.

Chairman **Gibbons**. Certainly.

Mr. Stark.

Mr. **Stark**. Thank you, Mr. Chairman, for letting me participate in these hearings today and have a chance to talk with Mr. De Angelus who, I understand, would not be offended if I referred to him as an old pro in this business. I expect you will agree you have held every customs job in the service in your career. Would that be fair?

Mr. **De Angelus**. Pretty close.

Mr. **Stark**. One of the reasons that I want to urge some increased funding for the Service is that I have always been of the opinion that it pays for itself. Not only have I been of the opinion that it pays for itself, but some of my constituents in and around the Port of Oakland would be willing themselves to pay, private industry would be willing to pay your employees' salaries if we could get increased service.

You mentioned computers to Congressman Pease—the same problem I have with the Oakland Police Department. The people in my district do not want more computers, they want more cops on the beat.

I think as an old pro you would agree that computers cannot do everything. The end result of your business is the guy who is going to open the crate, and a computer cannot open the crate, and cannot add up to make sure the number of cartons are there that the bill of lading says, and those are the problems I face.

Let me congratulate you, and I do not like to. Los Angeles won. I am bitter about that. You closed our regional office in San Francisco. You took the Oakland Raiders down to Los Angeles. [Laughter.]

But we have survived. You did not get any complaints with us, did you? You saved some money.

What I want to ask you for today, Mr. De Angeles, is a finder's fee for all that money I saved you by not complaining when you closed. Close another regional office, and give me a few part time inspectors in Oakland.

I wrote to you and Chairman Rostenkowski and Chairman Gibbons, and I have been trying to see if we cannot keep some part-time inspectors at the Oakland Airport. Yesterday I got a letter from Customs denying my request, but the numbers do not add up to me. You say if you would staff those military flights in our Oakland International Airport, maybe 3 days a week, an hour to 2 hours, we are told it would cost $350,000.

Now, I figure you could have about 120 inspectors there for that price, and I just wonder if you would kind of compare your figures in that letter with my calculation.

Would you look back at that letter, and tell me where the difference comes from, because I really did not want 129 inspectors. I just want them to process that 747 every now and again, that comes into the Port of Oakland, so we don't have to move it to San Francisco. It is still in the same area, but it is important to our community.

I want to ask about further regional consolidation. It is inconvenient. In San Francisco there is no question about that. But it worked, and why not carry it a step further, and go down to four offices, one on each coast?

Also, what about some of the aircraft and autos? Some of the aircraft maybe had a 10-percent utilization. I am perfectly willing to support increased drug interdiction and that you do more aerial surveillance, but I am saying, can we get rid of some of the old clunks that are being used, and use the maintenance and operations personnel on more modern things?

And my third plea, of which some of the savings I would like those few inspectors back in Oakland, is how about supporting—and I know this is controversial—how about supporting some user fees?

The President, through the OMB, had suggested that we use user fees on the Coast Guard. I really can attest that the commercial customers in my area would support that. They would happily pay for the convenience, which means sometimes have one of your inspectors sitting there for an hour or so with nothing to do, but rather than send him home, and make somebody wait a day an a half until they come back, they will pick up the extra cost of that couple of hours while they sit, and I will take care of the irate taxpayers who say I saw that Customs inspector sitting there for an hour doing nothing, because when that 747 unloads, or those containers unload, they are busier than a one-armed paperhanger.

I am going to get after the Trade Representative, too. He has got $72,000 in his budget for cocktail parties. That is up from $30,000 a few years ago. If you can get the Trade Representative to knock out $48,000 for cocktail parties, and give me just one more inspector at the Oakland Airport, instead of the parties, both of us could be heroes.

You are not going to get along too well with Ambassador Brock, but that is not the point. It is Customs collection.

That is a longwinded statement, a plea, some suggestions, and we would desperately like your help.

Mr. DE ANGELUS. Congressman, you were not here when we mentioned user fees. We will be coming before this committee with proposals for user fees, and I urge you to politic with your colleagues.

Mr. STARK. I want to see that distribution of inspectors to Oakland Airport.

Mr. DE ANGELUS. I promise to provide that. I was on the west coast, as you may be aware, recently. I was there 3 years ago, and discussed the user proposal. I was quite surprised, and pleased last week on the west coast to hear trade community people——

Mr. STARK. They are pulling. If they can help you resolve your problem, they know we are going to have a better economic climate, and a better shipping climate, and we will be more competitive if we have it. So I am not suggesting that idly. They have come to me.

Both your employees on the docks, and people who manage the companies, and said is this not an idea whose time has come. So you are going to find a receptive ear from me.

Mr. DE ANGELUS. Thank you.

We will be coming before this committee, and we appreciate that. We did sell some, and junk some aircraft last year. We plan to do that this year. We have new aircraft coming into the fleet, and we hope to reduce the number of old aircraft in our fleet by the end of this year.

With regard to the regions, I also mentioned before you got here, that we would like to reduce the number of regions by at least one, maybe even two.

With regard to San Francisco/Oakland, I made three trips out there before we closed the San Francisco region, and two since to the trade community. While there is certainly community pride with regard to a Customs Office in a Customs region, there has not been an operational problem presented to us, either before or after the closure of that region or as Baltimore.

Mr. STARK. You have been testifying to the regions. It has been suggested that we could use more people in the district.

Mr. DE ANGELUS. Absolutely, and if you help us close another region, I will find the personnel for Oakland, Congressman. [Laughter.]

Mr. STARK. You lay down a tough challenge. Are there any regional offices in Alaska, Mr. Chairman?

Chairman GIBBONS. There is one in New Orleans.

Mr. STARK. He mentioned we have to look elsewhere, if we can.

Thank you, Mr. Chairman.

I have a statement that I hoped to give later, but with your kind permission, I will ask that you consent to put it in the record.

Chairman GIBBONS. Yes, we will.

[The statement is at p. 715.]

Chairman GIBBONS. Mr. Pickle, we have got a vote on, and the second bell has rung. Can you come back?

Mr. PICKLE. Could I be recognized for one moment?

When I get through, should I conclude the hearing?

Chairman GIBBONS. No, I have a lot more witnesses down here.

Mr. PICKLE. Thank you, Mr. Chairman.

May I ask Customs, do you have any plans under consideration at this time to close or to consolidate any of the inland ports, the northern border ports, southern ports, or regional headquarters, particularly on the Mexican border? Do you have any specific plan for closing any of them now?

Mr. DE ANGELUS. Our plan is not to close, but to convert underutilized ports to reimbursable status.

Mr. PICKLE. Do you have a list of those you are considering?

Mr. DE ANGELUS. We have a list we are considering, which is being weighed by all the various offices involved within customs.

Mr. PICKLE. When it is appropriate, I would like to have a copy of that listing.

Mr. DE ANGELUS. We would certainly be happy to provide it.

Mr. PICKLE. I am interested in some of those inland ports in Texas.

Mr. DE ANGELUS. Maybe it would help if I explained what we are talking about. Last year we had proposed actually closing border ports as well as smaller inland ports. There is opposition for two reasons. One is civic pride and the other is a perceived economic impact. I know you come from the Port of Austin.

What we are proposing this year, and again we have to come before the committee for legislation, is that certain ports below a certain economic level of activity not be eliminated, but that customs services be provided on a reimbursable basis. On that basis it is relatively inexpensive for any individual community, while it would be expensive for Customs to do it all. Therefore, what we are proposing is that certain ports be made reimbursable, giving the community an investment in the Customs Office, and making it economically feasible for us to continue to provide services.

Mr. PICKLE. I can understand your approach, and you can understand my concern that the port of entry was established just a few years ago, and we are now in the process of building an inland port at Austin, and it is going well, and we will look with great consternation if there was a movement to close it.

I know you are working, and I would like to work with you on that. I notice under the laws we have that you are to give a 90-day notice to Congress with respect to any consolidation and closing, and, of course, you are meeting that requirement. I wonder if that is too short a time period.

Does this concern you? Would Customs be willing to go along with an extension of time if the committee felt it would be appropriate? Do you have any particular feeling that an extension of time might be helpful to us?

Mr. DE ANGELUS. I realize that it might be helpful to you, Mr. Pickle. However, it would cause us great problems. As you know, our budget operates on an annual basis. Consequently, we have got to take our actions in the fiscal year in which there are funds available to cover costs. Delays result in costs being carried over the next year when there are no funds available. It would cause us great problems to delay the actions proposed.

Mr. PICKLE. Suppose we held off on the consolidation until 1986? Would there be any particular cost to your Agency?

Mr. DE ANGELUS. Yes, there would be. There would be considerable costs, and as you know, the moneys that we do not use in 1985 are not available in 1986.

Congressman Pease asked me how many vacant positions we have, and I told him approximately 325. We have to use that money to cover costs this year when it is available so that costs will not carry over to next year.

Mr. PICKLE. I will be talking with you in the meantime, and with the customs officials, to look into the extension, or what actually will be the cost, and whether that would affect any of the closings immediately, if you did go along with an extension.

But in the interest of time we will not go into it further now.

Mr. DE ANGELUS. We will be available at your convenience, Mr. Pickle.

Mr. PICKLE. I have other questions I want to submit to you, that I will ask to be made a part of the record. Then since the vote is underway, the Committee will stand in recess for 10 minutes.

Mr. DE ANGELUS. Thank you.

[Questions and answers for the record follow:]

THE COMMISSIONER OF CUSTOMS,
Washington, DC, February 26, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I have enclosed responses to the questions forwarded to us on February 6, 1985.

If I can be of any further assistance, please let me know.

Yours faithfully,

WILLIAM VON RAAB,
Commissioner.

Enclosure.

Question. What was your original budget request to OMB for fiscal year 1986?

Answer. Customs original budget submission to Treasury requested $699,546,000 and 13,292 average positions for Salaries and Expenses. Treasury's submission to OMB requested $674,000,000 and 13,368 average positions for Customs Salaries and Expenses.

Question. Provide a summary of any program decreases or cutbacks which would result from the proposed FY 1986 budget. Does this budget request require a reduction in force from the current level of permanent positions? If so, how many in each category? What is the probable impact in terms of revenue collection, interdiction of narcotics, and the functioning of commercial operations?

Answer. Customs is not reducing any specific programs. Tariff and Trade and Investigations appear to be cut back, reductions are actually due to many one time costs in FY 1985 which did not recur in FY 1986. In addition, reductions in funding are also due to the five percent pay cut planned in FY 1986.

This budget request provides a reduction of 887 average positions as follows:

Position category	*FTE*
Inspectors	−206
Import Specialists	−244
Stenographers, Typists, and Secretaries	−10
Other Clerks	−7
Customs Aids	−45
Laboratory Employees	−50
Other Regional and District Employees	−263
Other Investgative Employees	−19

Position category	*FTE*
Headquarters Employees	30
Part-Time and Temporary Positions	-13
Total	-887

Reductions in the number of inspector positions are coming chiefly from the conversion of ports to a reimbursable mode of operation. Customs needs to reflect this change as a loss of positions in the regular appropriation account. In general, decreases in positions also reflect the movement away from labor intensive ways of operating to automated and selective approaches.

There will be no adverse impact on revenue collection, narcotics interdiction, or commercial operations since staffing reductions will be offset by savings due to increased productivity, automation and new procedures which will result in more efficient ways of serving the public and the business community.

Question. What additional money would be needed in the FY 1986 budget request to keep pace with inflation and maintain the present level of personnel and funding?

Answer. Additional funding of $46.6 (including $17.6 million pay cut) million would maintain the same level of personnel and operations in FY 1986 as in FY 1985.

Question. What is the Service's concept of the role of the import specialist, and its rationale for (1) reducing the number of import specialists, (2) assigning import specialists more than one commodity, thereby diluting expertise, (3) experimenting with "account" and "industry" import specialists; (4) substituting post-audit procedures for contemporaneous admissibility determinations, and (5) designing the Automated Broker Interface system to liquidate entries based solely on broker representation while bypassing import specialist review for the majority of the entries.

Answer. The Customs Service views the import specialists as tariff and trade experts who manage the Customs processing of commercial importations to ensure compliance with all applicable laws and regulations.

In this role, import specialists classify and appraise imported merchandise and ascertain the duties and taxes to be collected; determine if the merchandise is admissible into the United States; and establish if quotas, visas, or other import constraints apply to the merchandise.

From collecting the import duties to applying dumping and countervailing duty findings and determinations, enforcing copyrights and trademarks, and verifying import statistics, the role of the import specialist is crucial to the efficient and uniform administration of the laws for which the Customs Service is responsible.

(1) Reductions are planned in 1986 consistent with our centralization initiative. Their number is consistently being reviewed in line with budgetary limitations and workload data. Such factors as the streamlining of Customs import requirements and the introduction of automated systems which enhance Customs ability to determine in advance the level of processing required by individual importations can eventually have an effect on the size of the work force. Reductions will be made only as a result of management evaluations of the needs of Customs in light of its responsibilities.

(2) There is no ongoing test or experiment of either "account" or "industry" import specialists. We have tested the account import specialist concept during the last 2 years but the test has been terminated with a decision that it is not feasible at this time. No other experiments are being pursued or contemplated.

(3) With respect to post-audit reviews, we are very careful to exclude from bypass any entries covering trade programs (i.e., quota, visas, Trigger Price Mechanism, antidumping and countervailing duty, Generalized System of Preferences), and other high risk entries which in the judgment of the import specialists require intensive review. We do have a quality control review of bypass entries which involves the post-liquidation review of 5 to 15 percent of those entries. These reviews tell us whether our bypass criteria is working properly.

(4) The Automated Broker Interface system is designed to encourage brokers to electronically transmit entry data to Customs in a uniform, structured manner never achieved in the manual environment. Participating brokers must meet stringent performance standards of data quality based upon edits programmed into the Customs computer. These edits are checking duty calculation, determining if an importer number is valid, and seeing if data such as census statistics are missing or erroneous. Based upon more accurate data from brokers, Customs will implement entry summary selectivity procedures based on criteria determined by import specialists.

These criteria will allow some repetitive transactions that are error free to bypass the import specialist review functions in favor of selecting transactions with complex or probable risk factors for import specialist manual review. In this manner import specialists are relieved of the routine clerical review of many entries so that they can concentrate their expertise on the more complex entries. An additional system capability will provide for the random selection of entries for import specialist review which normally have been bypassed. Furthermore, through the system, the import specialist will have access to information on all bypassed entries.

Question. Is there a morale problem among import specialists?

Answer. Yes, there is a morale problem; however, it is a complex condition and difficult to measure. While I am certain that many Import Specialists may have some anxiety about the changes we would like to introduce, many are also excited about their prospects. The majority of import specialists, I believe, recognize the need to simplify the document handling functions of entry processing through the use of selectivity concepts so that import specialists can dedicate their not insignificant skills to the decisions and judgmental actions that determine the manner in which import entries are processed.

This is not to say that there is universal approval of all the new initiatives underway in Customs which affect in some manner the import specialist work force. Selectivity, centralization, automation, these are the winds of change which are affecting every facet of our society. Often, some of these events dislocate and inconvenience some individuals more than others. Our duty, however, is to get the job done accurately, uniformly, and as economically as possible. Import specialists are dedicated professionals who recognize their own responsibilities as well as those of management. I hope and believe that their morale is not affected by genuine attempts of management to improve Customs operations.

Question. Describe the role of the Customs Commecial Computer and the current status of the Automated Commercial System (ACS).

Answer. The Customs commercial computer is intended to be the processor of all automated information about commercial importations of merchandise from time of unloading in the United States until final disposition.

The ACS project is designed to encompass all aspects of Customs commercial processing and will result in Customs having one integrated automated commercial processing system. The implementation commenced in FY 1983 and consists of 15 major modules and will be developed over a 4-year span. The design of the system emphasizes the development of automated interfaces with various trade groups to eliminate the data keying burden on Customs. The presence of full line-item data will permit Customs to utilize sophisticated selectivity systems to "bypass" routine shipments, while identifying high-risk shipments for intensive review. This will significantly improve the productivity and effectiveness of the Customs workforce in both the commercial and enforcement areas. We are currently finishing Phase II of the project and will commence Phase III in April.

Question. What is the current status of the Automated Broker Interface system? Explain how the system will provide quality control for broker errors, e.g., how would the system detect and correct an inadvertent miscalculation on an entry? What is the broker error rate at present and how will it be monitored under ABI? What is the import specialist's role under ABI?

Answer. Even though participation is voluntary, interest in the Automated Broker Interface (ABI) program is high. There are currently 40 brokers in 18 Customs Districts either testing or already live on the system. The Customs computer is programmed with thousands of edits which detect data errors. Brokers are advised of these errors and they must be corrected electronically before the entry is actually presented at the Customhouse. A broker must reduce the entry error rate of 10 or less during initial ABI presentation and must further reduce the error rate to less than 1 percent at the time of Customhouse processing in order to qualify and maintain ABI operations. Brokers are currently maintaining less than 5 percent errors on initial presentation and less than 1 percent during Customhouse processing. The import specialist role under ABI is enhanced since the system handles much of the routine clerical work thus freeing import specialists to use their expertise on more complex entries. As selectivity procedures based on import specialist developed criteria are implemented, import specialists will be provided with training and system capabilities which will allow them to spend more time on work requiring professional judgment rather than on routine administrative tasks. Therefore, based on our projections, we anticipate approximately 50 percent of all entries to be handled under the ABI program by the end of FY 86. This figure assumes that many service bureaus, port authorities, and medium sized brokers will be joining ABI.

Question. Is any money included in the fiscal year 1986 request for new construction, purchase, or expansion of Customs facilities? Please list construction activities.

Answer. In FY 1986, Customs is planning to construct a hanger facility to support the P-3A program. This project is projected for completion in FY 1986 and is funded through the Air Program O&M account. There are no other funds for the construction, purchase, or expansion of Customs facilities.

Question. What is the total number of motor vehicles under Customs control as of February 1985? Provide a breakdown.

Answer. The Customs Automated Vehicle Information System (CAVIS) shows that following information as of February 8, 1985:

	All customs-owned vehicles	Customs owned passenger vehicles meeting replacement standards	Leased loaned
1. Inspection vehicles:			
Passenger	358	263	430
Nonpassenger	226		76
Total	584	263	506
2. Enforcement vehicles:			
Passenger	1,525	795	225
Nonpassenger	332		12
Total	1,857	795	237
3. Administrative vehicles:			
Passenger	328	240	60
Nonpassenger	133		12
Total	461	240	72
	2,902	1,298	815

Question. What is your travel budget for FY 1985 and FY 1986? How does it compare with the budget for FY 1984? Describe the purpose (destinations, reasons for travel, personnel involved, etc.) for Customs travel.

Answer. The U.S. Customs Service Salaries and Expenses travel budget for FY 1985 is 16.1 million and for FY 1986 is $17.8 million. Our travel expenses in FY 1984 was $13.5 million. Of this total, over 90 percent was for operational and enforcement activities.

The increase in our FY 1986 travel budget over FY 1984 is due in large part to one time costs for implementation of management savings. These costs include transfers and relocations of Customs functions and employees.

The purpose of Customs travel is directly related to the law enforcement and revenue collection components of Customs' mission. Since Customs Service work locations are widely dispersed throughout the United States and in numerous foreign countries, Customs employees must travel in performance of their duties. Customs agents travel during the course of drug smuggling, fraud, financial and other investigations to obtain evidence, develop cases, apprehend and prosecute violators. Inspectors use travel funds to cover the cost of details and assignments to other locations within a port to assist passenger or cargo processing during peak times; to provide support to other inspectors at smaller ports who are on annual or sick leave; and, to provide staffing at small ports where positions are vacant. Customs patrol officers may be temporarily detailed or reassigned to shifting trouble spots as the need arises. In addition, Customs travel funds are used to cover employees' costs for permanent transfer from one duty station to another and home leave for those serving outside the contiguous United States and in foreign countries.

Question. What was the total revenue collected in 1984 in duties; in countervailing duties; in antidumping duties? What is the relationship of those duties to overall collections?

Answer. In fiscal year 1984, Customs received $12.5 billion in total collections, of which $11.7 billion represented duties on imported merchandise. During 1984, Customs received $1.1 billion in countervailing and $.3 billion in antidumping duties for a total of $1.4 billion in combined countervailing/antidumping receipts.

Question. Please furnish a copy of the service's 5-Year Plan for the period FY 86-90. What resource requirements (dollars and average positions) are projected for fulfillment of the plan? How much of these can be supplied from internal productivity gains?

Answer. Attached is a draft copy of the U.S. Customs Service 5-Year Plan for 1986-1990. This 1984 document outlines the plans and general direction of the Service for the next 5 years.

No specific resource requirements are projected for fulfillment of the plan beyond FY 86. In FY 86, Customs proposes a level of approximately $639 million with 12,531 average positions. The FY 86 proposed level includes funding for the following Plan initiatives: Automated Commercial System ($6.6M); Treasury Enforcement Communication System (TECS) II ($4M); integrated data telecommunications network ($2.8M); wind tunnel ($500,000); and fiber optics ($300,000). The FY 86 proposed level is reduced from the FY 85 proposed authorized level of approximately $651 million with 13,418 average positions.

With the current deficit situation, Customs anticipates that further budget reductions will be necessary in FY 87 and beyond. To meet this challenge, Customs will continue to achieve management efficiencies through automation, organizational consolidation, and selectivity. Management savings as a result of such initiatives will provide approximately $28 M and 887 average positions in gross savings.

U.S. Customs Service 5-Year Plan 1986-1990

I. PURPOSE

A. This document describes plans and the general direction of the Customs Service for the next 5 years, with an emphasis on goals, assumptions, general strategy, objectives, and key issues.

B. This plan represents the "current state of thinking" in the Customs Service. It should therefore be regarded as a dynamic document which may change from time to time in response to new legislation, shifts in policy, changes in economic and enforcement challenges, etc.

II. ASSUMPTIONS

A. Workload

Workload will increase significantly during the next 5 years in all areas associated with Customs mission and responsibility as shown by the key indicators below. These estimates are the same as those used to develop the Fiscal Year 1986 budget. They are estimated by a simple econometric model using an economic forecast developed by Data Resources.

	Fiscal year—		Percent change
	1986	1990	
Formal entries (million)	6.4	7.7	+20
Air passengers (million)	37.3	52.2	+40
Total persons (million)	304.6	337.0	+11

B. Resources

Customs Fiscal Year 1984 budget provides for $625.9 million and 13,323 average positions. While it is difficult to estimate precisely the Fiscal Year 1985 resources, the Administration has requested $617.4 million and 12,369 positions. We anticipate only minimal increases in inspectional positions for workload growth.

C. General Environment

1. Enforcement

Despite sincere and concerted efforts to reduce the demand for narcotics, it is assumed that this demand will increase or at best continue at its present level and that, consequently, there will be no decrease in the attempts to smuggle narcotics into the United States. There will be a continuous flow of millions of dollars from drugs, white collar crime and other illicit activity. In the critical technology area, the United States and the other economically advanced Western Countries will continue with the rapid expansion and use of technology to improve economic productivity as well as military capability. This will lead to a continuing aggressive and active program by the Soviet Union and other Soviet Bloc countries to obtain critical technology for use in their own military forces. Pressures will continue, however, to ensure that efforts to prohibit the illegal flow of this critical technology does not adversely affect the flow of legitimate commerce and the ability of U.S. industries to profit through international trade.

2. Trade Policy and Revenue Protection

Due to increasing world economic competiton, U.S. Government and business concerns regarding unfair competition will heighten the attention given to the adverse economic impact on U.S. industries. This will lead to a corresponding need for improved effectiveness in detecting efforts to avoid import restrictions and payment of duties. There will be an increase in the use of nontariff methods to control the flow of trade, including orderly market agreements, quotas, voluntary trade restraints, government subsidies and export controls.

3. Facilitation

We can expect that the volume of trade and travel will continue to grow more rapidly than Customs resources. In addition, technological changes will affect both the ways and locations that people and cargo enter the country. The public demand for rapid processing and clearance will not lessen. Customs will need to constantly improve facilitation through innovative approaches and technology to meet this demand.

4. Resource Management

The emphasis to reduce the cost of Government in nondefense areas will continue. There will also be continued emphasis on automation which will require significant financial commitments up front, assuming there will be greater future savings in the areas of workload and position reductions. At the same time Customs will continue to specialize and become more selective in handling daily workload. These efforts will have the effect of decreasing lower grade personnel through the use of contract assistance while increasing the need for higher graded skilled jobs.

5. Legislative

Customs is governed by a highly complex series of laws, many of which are old and outdated. Many of these adversely impact Customs ability to manage its program efficiently and effectively in a modern environment. If they remain unchanged, Customs will have difficulty achieving some of the goals in this plan.

D. Conclusion

The increases in workload, the limited prospect of additional resources, together with the need for Customs to improve its ability to interdict narcotics, prohibit the illegal exportation of critical technology, detect criminal and civil fraud, attack the financial base and seize the assets of criminal organization, and enforce levels of economic protection prescribed by statute and policy will require that Customs develop methods and approaches to increase efficiency and effectiveness. Further, we need to develop a better understanding of these approaches by all affected parties so that we gain their support in implementation. This is particularly true of Customs personnel, since their support and contributions are critical for success.

III. GOALS

A. Enforcement

As our first priority, we will improve our effectiveness in interdicting narcotics and other contraband, attacking the financial base of criminal activities and in prohibiting the illegal export of critical technology arms and munitions. We will improve our performance in detecting violations of laws related to the importation of merchandise into the United States, including those that are caused by omission, negligence, and intentional fraud. We will continue to emphasize significant criminal activity while deemphasizing minor violations. We will improve the "tools" of our enforcement personnel through better training, technology, intelligence, and legislative changes, such as the Bank Secrecy Act.

B. Trade Policy and Revenue Protection

Through the increased use of automation, we will develop better and more efficient methods of revenue collection. These improvements will not necessarily collect more revenue but will improve cash flow and other non-tariff controls on trade, e.g., quota, orderly marketing agreements.

C. Facilitation

We will carry out our enforcement and commercial responsibilities with minimal adverse impact on law abiding importers and travellers by reducing the time required to process merchandise, baggage and conveyances.

D. Resource Management

This improved effectiveness in the enforcement and commercial areas, while continuing to facilitate the flow of travellers and commerce, will be done while we improve the management of our resources. Improved resource management will, through such efforts as automation, organizational restructuring and reallocation, enable us to obtain more effective results from available resources. This will allow us to continue at a staffing level below that of other customs services relative to workload, population, and expanse of border. An important aspect of this goal will be to minimize any adverse impact of management decisions on Customs employees. Their motivation, creative assistance and dynamic participation will be absolutely essential in achieving all of the above goals.

IV. BROAD STRATEGY

In essence, our strategy to achieve these goals will be to establish a number of specific objectives in each of the four areas listed above. The specific strategy for achieving each objective is included in the objective's description. It should be noted, however, that there are some general strategies that will be employed by the Customs Service which apply to all objectives. These are listed as follows:

A. Use of Automation

Extensive use of computer based technology is the key foundation upon which Customs will improve its enforcement and commercial performance. In the enforcement area, this will involve the complete redesign of the Treasury Enforcement Communications System, the improvement of its data base, and the development of very advanced capabilities related to intelligence analysis. In the commercial area, the complete implementation and refinement of the automated commercial system should revolutionize our entire processing of commercial merchandise. The development of an Integrated Communications Network will improve efficiency and allow the linkage of commercial and enforcement automated systems. And finally the use of automation at all organizational levels should revolutionize the way we produce, disseminate, file and retrieve information.

B. Selectivity

We must select the aircraft, vessel, cargo shipment, entry document, airline passenger, etc., that represents the highest potential threat and return for our efforts. Our automated systems, intelligence information and dissemination systems, the training of our employees in profiles, etc., must all be improved and enhanced so that the effectiveness of our selectivity continues to improve. We must also develop methods and techniques of determining the effectiveness of our selectivity processing so appropriate changes can continue to be made.

C. Administrative Reduction, Streamlining, and Centralization

Although we may anticipate resistance from Congress and employee organizations and considerable Congressional interest, we plan to continue to streamline and centralize our functions. We will reduce administrative overhead by eliminating redundant and unnecessary functions. We will streamline our organizational structure by eliminating unnecessary layering and we will continue to centralize operational and administrative functions where any savings are possible. These actions will be facilitated by adequate preparation to justify our actions to all interested parties.

V. OBJECTIVES

A. Enforcement

1. Develop Effectiveness Measures

We will develop and implement realistic measures to determine our enforcement effectiveness in interdicting narcotics and other contraband, stemming the flow of critical technology to Warsaw pact nations and reducing commercial fraud. Most of these measures will deal with the best assessment of threat available compared with the degree to which different enforcement approaches are successful. A continuous refinement of these measures will permit Customs to assess its ongoing enforcement effectiveness in general and by geographical area. In all areas, our general enforcement strategy is to raise the overall risk to potential offenders to the degree that it begins to create an effective deterent.

2. Narcotics

Based on our threat assessments we will continue to develop and implement methods and techniques which will lead to the improvement in our enforcement achievements based on each threat analysis and specific target. These approaches and techniques, of course, must be "measured" by the methods defined in the first objective above. Our increase in performance must be related to the number of seizures, dollar value of narcotics seized, total amounts seized, and must be established as a ratio of the estimated threat or availability of the narcotics. Also, some methods of estimating the degree to which narcotics availability has decreased due to a "deterrent effect" must be developed. It should be stressed that while this is an important task, it is not a simple one since it requires estimating any fall off in demand, as well as supply, and delineating the impact of other agencies, both federal and local.

3. Revitalize Intelligence Program

Complete the revitalization of the Intelligence Program and integrate it effectively with automation capabilities and operational processes. We began the revitalization of this program in FY 84. Long-term effectiveness, however, depends heavily upon extensive training, use of automated intelligence, dissemination and analysis techniques, effective use of products by operational personnel, etc.

4. Critical Technology Exportation

We will significantly improve our ability to identify illegal high risk technology shipments, to identify intended destinations, and to reduce unnecessary detentions by 35 percent. Expanded foreign and domestic investigations targeted on organizations involved in illegal technology shipments will lead, we believe, to more significant cases and an increase in successful prosecutions. We will continue to rely heavily upon the intelligence community to provide us with information regarding threat estimation in this area.

5. Commercial Fraud

We will significantly improve our ability to detect the occurrence of commercial fraud, develop effective "cases" as a basis for prosecuting the offender, and to speed up the process of bringing the offender to a prompt administrative remedy, or criminal conviction. It will require the further use of task forces like those already employed for textiles, steel, and electronics under Operation Tripwire. Our threat analysis in the commercial area has resulted from industry sources and our Commercial Fraud Intelligence Center. We will continue to measure our effectiveness against these indicators in specific target areas.

B. Commercial

1. Automated Commercial System

We will complete the nationwide implementation of all modules of the automated commercial system. This will be accompanied by the development and implementation of measures of the manpower and workload savings as well as improved commercial enforcement outputs such as fraud referrals, additional revenue collected, penalty notices issued, liquidated damages achieved, etc.

2. Review of Classification and Valuation

The effects of automation on the classification and value function must be asessed to determine whether other organizational responses are necessary to more effectively protect and collect the revenue and enforce tariff and trade controls. The role of the import specialist will continue to move away from routine paper processing and into a more participative enforcement role working closely with regulatory auditors, agents, and inspectors.

3. Harmonized System

We will proceed with the implementation of the Harmonized System within 2 years of Congressional approval. Extensive training of brokers, importers and Customs personnel will be required.

4. Seized Property System

We will implement significant improvements to the property seizure and disposal system to reduce the number of instances where Customs is held responsible for deterioration of aircraft, boats, etc., while in the Government's possession, and to reduce the cost to Customs of storage, etc. This is also intended to speed up the final decisions on the refund, or return, of seized property, thereby increasing the "equity" of the process. This system must also be accompanied by the development of measures to determine the degree to which we are "moving property" more effectively. It should be noted that this objective requires new legislation which we believe will be enacted during FY 84.

5. Informal Duty Limit

Assuming Congressional approval, implement increases in the informal duty limit which would result in a decrease in Customs workload required to process informal entries without any loss in revenue or in the validity of import statistics.

C. Resource Management

1. Reduce Non-Enforcement Staff

We will develop and implement systems which will improve Customs productivity in non-enforcement areas that will allow personnel reallocation of up to 3 percent per year. These savings will be used to offset workload growth and to enhance enforcement. It should be noted that this depends heavily upon our successes in automation and centralization.

2. Realign Management Structure

We will critically examine the organizational structure we now employ to manage the Customs Service. Fundamental changes in priorities and trade patterns have occurred since the current region and district structure was created in 1966. Modern automation and communications systems allow for centralization and consolidation that may render the current regional concept obsolete.

3. Reduce Administrative Overhead

Consistent with the above objective, we will continue to use automation, improved resource allocation, program consolidation, training, and a "work smarter" approach, to reduce managerial layers and redundant staff at Customs Headquarters and regional headquarters. This reduction will target "administrative overhead". It will include not only areas traditionally associated with administration (i.e., logistics, personnel, finance, etc.) but will also involve program analyst type positions in Inspection and Control, Classification and Value, etc.

4. Contracting Out Under A-76

We will conduct an extensive and comprehensive assessment of all Customs related functions to determine if more can be contracted out to the private sector through the use of the "A-76 Program". We intend to take an extremely critical and creative look at our functions not only from the perspective of resource savings, but of achieving the Administration's objectives of relying more upon contracting to private industry and less upon accomplishment by government personnel.

5. GS-11-15 Position Reductions

We will continue our program to reduce the number of GS-GM 11 through 15 positions in the Customs Service. This program concentrates on high grade overhead layers and staff positions in Headquarters and the regions and will generally not affect first-line supervisory positions, e.g., supervisory import specialists, supervisory inspectors. The intent is to ensure that positions that are associated with the day to day management of ongoing line operations will not be adversely affected. It should be noted that increases in enforcement personnel and the specialized personnel needed for our selectivity, intelligence and technology programs fall within this grade range, and that positions likely to be contracted to private sector are below this grade range.

6. Internal Controls

We will continue to incorporate internal controls and integrity controls as an integral part of program development, implementation, management and evaluation.

7. Equal Opportunity

We will continue to stress achievement of Equal Opportunity goals, but in a broader spectrum of areas dealing with hiring, promotion, training, etc. We must institutionalize Equal Opportunity as an integral part of these processes and ensure that we are delivering quantifiable results.

D. Legislative Changes

We will develop and propose legislative changes to eliminate legal restriction on our ability to improve Customs effectiveness in several areas. These will include new Brokers legislation, a better forfeiture law, increased limits for informal entries and eliminating prohibition on organizational changes.

E. Estimated target dates and milestones, essential to achieving these objectives, are attached

VI. SIGNIFICANT ISSUES

This section is intended to outline areas of significant potential improvement which require further indepth study and might then become the basis for objectives for future years as this plan is modified.

A. User Fees

In December 1981, Customs prepared a proposal to collect user fees for many of the functions provided by Customs. This would have resulted in the annual collection of $440 million for Customs related functions and a total of $536 million if other agencies costs associated with processing of merchandise and travellers were also included. We did not proceed with these fees due to opposition from the travelling and importing public which in turn led to disapproval by OMB. Our philosophy in levying fees was that those who "create the need" for this service should reimburse Customs for the service. The Grace Commission adopted a significant number of the proposed fees using the philosophy of those who "benefit" from the service should reimburse Customs. We are currently preparing a legislative package to implement fees covering such activities as drawback, processing of aircraft, etc. We must thoroughly assess the degree to which these fees, in fact, represent a "benefit", the degree to which we will be successful in implementing them, the efficacy of our cost methodology, and most importantly the methods and techniques we must employ for effective implementation and collection.

B. Resource Sharing with Other Agencies

To a limited extent, we are involved in some resource sharing with other agencies. Customs and INS share responsibility in some locations for primary processing; many agencies use the TECS Treasury System; the Department of Defense shares some of their resources in terms of surveillance aircraft, AWACS, etc.; Customs participates in interagency drug task forces in 12 cities; etc. We intend to study some other initiatives involving the degree to which we can share research in applying technology. Night vision devices, clandestine beepers, communication enhancements in our radio systems, high speed sensor equipped aircraft, our entire area of commercial and enforcement automation, etc., all represent significant advancements to state of the art. Other agencies are probably involved in precisely the same kind of research and technological development. We need to establish ways of better sharing this technology. The entire issue of the INS/Customs primary border consolidation directly impacts upon this "resource sharing". Even in the area of logistical, financial, and personal support, we might consider the degree to which more centralized processing support can meet the needs of multiple agencies. The scope of such a study, however, would have to be initiated at the Department level, inasmuch as it would affect a number of Treasury bureaus as well as other departments.

C. Marine Program

During the past fiscal years, we have completed a series of comprehensive and thorough studies of the Air Program. This led to a strategy for the acquisition of resources and methodologies to improve our Air Program. We have not, however, devoted the same attention to our Marine Interdiction Program. While we have achieved some level of effectiveness in that program, the degree of management attention and creative thinking simply has not been there to deliver the promising innovations that we have begun in the Air Program. We are going to raise the priority for reviewing this program and laying the foundation for significant improvements.

D. Internal Affairs

The accomplishment of our goals increases risk to the continued integrity of operations. Selectivity, automation and vigorous enforcement activity all produce an atmosphere conducive to relaxed internal controls and increased potential for employee dereliction. We will need to employ technology to aid in the collation of information and intelligence to identify personnel and system weaknesses in order to rapidly identify and stamp out potential adverse integrity issues.

E. International Relations

Over the past several years, Customs has expanded its international activities and has established cooperative relationships with foreign customs services. These relationships have been developed through formal bilateral agreements; contact by Customs Attaches and Representatives stationed overseas; training naroctics interdiction participation in international or regional organizations soon as the Customs Cooperation Council; and, Customs advisors assisting foreign customs services. Special working relationships have been established with Mexican and Canadian customs. Cooperation with Mexico in commercial areas has had some significant results in easing customs processing on both sides of the border. Enforcement cooperation with Mexican customs and several other foreign customs services has also had some significant results. We must, however, assess the degree to which these cooperative efforts have been effective, mutually beneficial, and the level of commitment which must be made to the programs.

F. Passenger Processing Innovations

The pending merger with INS at airports provides us an opportunity to develop radically new approaches to air passenger processing. Passenger volume will continue to grow faster than our resources. The merger with INS will provide an opportunity to revamp the total inspectional process. To do so, we will have to identify and resolve potential problems, such as merging Customs and INS personnel into our cohesive organization, reconfiguring airport facilities; obtaining airline cooperation.

G. Cargo/In-bond System

Customs will move to implement a new approach to Cargo Examination whereby the most essential processing determinations will be made at the port of arrival rather than the port of entry. Under current procedures, the merchandise is often transported in-bond to inland ports and is then examined, cleared, and entered by Customs. With the implementation of the Automated Commercial System, we should have the capability to accomplish most of the processing of this merchandise at the port of arrival, thereby avoiding a wide spectrum of control problems associated with the current system. (All planned changes will continue to permit entry at inland ports).

VII. FY 1986 OBJECTIVES

Customs FY 1986 proposed Budget Request reflects the 5-year plan objectives and is directed to implementing specific strategies to achieve the targeted results (cost of initiatives are in brackets).

A. Enforcement against drugs and enhanced revenue-protection

Plans for FY 1986 include increasing the use of special operations plans; improved intelligence, enforcement teams, and computer-based systems; use of appropriate electronic devices and other equipment; and the continued development and implementation of a modular concept for the air and marine programs. Specific FY 1986 initiatives are the use of fibre optics for drug detection ($446,000), marine modules ($7.5 million), Operation Tripwire ($1.8 million), wind tunnel ($1.3 million), etc.

B. Expanded intelligence support and production

Plans for FY 1986 include continuing and expanding the intelligence training program for both intelligence and non-intelligence employees; enhancement and finalization of the national intelligence reporting system; enhanced reporting from the Intelligence Community to support Enforcement, Inspection and Control, and Commercial Operations objectives and operations. Additionally, during FY 1986 an integrated secure communication capability with selected Intelligence Community agencies will be initiated, support to Customs Attaches for collection of foreign intelligence will be expanded, inspection of Regional Intelligence Branches will be increased, and port threat assessments and direct tactical intelligence support will be reviewed and improved. Specific initiatives include $2.6 million for development of a National Intelligence System; and $7.1 million for radio voice privacy.

C. Facilitation of a growing cargo and passenger processing workload without commensurate increased resources

Plans for FY 1986 include continuing and expanding selectivity approaches to prcoessing, which requires improved information available to line units, decreased paperwork, expanded use of electronic and automated systems, and enhanced training. Specific FY 1986 initiatives are the automated passport reader ($420,000), Automated Commercial System ($9.8 million), implementation of Harmonized System ($804,000), etc.

D. Disruption of major large-scale criminal enterprises involving illegal exportation of critical technology, drug-related monetary transactions, and fraudulent importations

Plans for FY 1986 include expanding the intelligence capabilities of the Treasury Financial Law Enforcement Center and covert operations; continuing participation in multi-agency task forces; and obtaining foreign cooperation in developing intelligence and increasing our overseas capabilities. We will utilize the capabilities offered by the proposed Treasury Financial Intelligence Network to increase our analytical capabilities in targeting criminal enterprises. Specific FY 1986 initiatives are Operation Tripwire ($1.8 million), undercover operations ($325,000), tagging and tracking of select critical technology exports ($8.4 million), multi-regional importer audits ($2.5 million), commercial fraud ($2.5 million), etc.

E. Streamlining operations through the application of modern technology

Plans for FY 1986 include developing the "paperless transaction concept", improved risk identification approaches and automating penalties and forfeitures; fully integrating Customs communications; and automating office and work systems. Specific FY 1986 initiatives are the expanded Automated Commercial System ($9.8 million), the wind tunnel ($1.3 million), TECS II design and development ($6.9 million).

Question. What is the Service's estimate of the narcotics threat to this country from foreign sources over the next five years? What amount of Customs interdiction resources is required to cope with this threat? What Customs resources are required to increase overall narcotics interdiction from the present rate (alleged to be 10 percent) to a significantly higher level?

Answer. The estimated quantities of drugs destined for the United States from foreign source areas during the period 1986–1990 are listed below by year and type of drug (in pounds).

Year	Heroin	Cocaine	Marijuana	Hashish
1986	11,000	130,000	33,000,000	243,000
1987	12,000	135,000	34,400,000	219,000
1988	12,000	140,000	35,800,000	197,000
1989	12,000	146,000	37,200,000	177,000
1990	12,000	152,000	38,700,000	159,000

The U.S. Customs Service is responsible for the interdiction of all types of contraband smuggled across our borders. Our primary emphasis however, is on drug smuggling and it will take virtually all of our interdiction resources to cope with the drug threat over the next five years.

We have been improving our enforcement performance without increasing our resources through such methods as improved intelligence collection, analysis, and dissemination; more mobile and selected deployment of resources; and improved cooperation with other agencies. We anticipate these improvements will continue and cause a significant increase in the drug interdiction rate over the next five years.

Question. Describe the military participation, training, and resources being utilized in drug interdiction efforts by Customs. What actions has Customs taken to implement the military role?

Answer. Since the relaxation of Posse Comitatus, the Department of Defense (DOD) has played a major role in Customs' drug interdiction efforts. Through the use of E-3A (AWACS), E-2C's and OV-10's, the desperately needed radar detection and surveillance capabilities are being realized. The utilization of these assets has been proven effective, but the degree of support remains limited since the state of combat readiness of the assets involved cannot be adversely affected by their use. Additionally, DOD support is provided only as long as some degree of coincidental crew training is accomplished.

In addition to the detection and surveillance support, 12 DOD aircraft are now on loan to U.S. Customs, greatly enhancing Customs interdiction capabilities. These include one P-3A, used as an airborne surveillance platform; 2 OV-1C Mohawks, used as trackers; and three Cobra and six Black Hawk helicopters, used for apprehensions. To further enhance our detection capabilities, Customs will be taking delivery of three additional radar-equipped P-3's this fiscal year. Customs also anticipates the loan of six C-12 aircraft from the Army sometime during FY86.

The U.S. Army has provided ground school and flight training to U.S. Customs to qualify pilots in command for the Black Hawk helicopters.

The U.S. Customs Service represents the Department of Treasury in the Vice President's National Narcotics Border Interdiction System (NNBIS). NNBIS is responsible for orchestrating the drug interdiction effort on a national level. All military assistance desired by Customs, whether it be the use of radar equipped aircraft or the loan of military assets, is requested through and coordinated by NNBIS. To facilitate the liasion between NNBIS and Customs, Customs Office of Tactical Enforcement has designated a Customs Officer to act as NNBIS coordinator.

With regard to military participation, the Customs Service is evaluating the possibility of entering into an agreement for a joint development project with the Department of the Army to modify an F-16 radar for 360° surveillance for land, marine, and air targets. This modified radar is proposed for testing as part of the Joint Surveillance Target Attack Radar System (J-STARS) which is managed by the Department of the Army. Our marine interdiction program works closely with the U.S. Coast Guard (USCG). The Customs Service and USCG are currently evaluating the applicability of tethered aerostats for use in marine interdiction cases. We have included the USCG in the testing of the effectiveness of marine radar mounted atop buildings on the coastline.

An agreement has been drafted that would provide USCG maintenance and repair support for the Customs fleet. The draft agreement covers work that will be performed at USCG facilities on a reimbursable basis.

During FY 84, 132 planned cooperative enforcement operations were conducted by the Customs Service and USCG. To date in FY 85, 39 joint operations have been conducted and several more are tentatively scheduled. In New Bedford, Massachusetts, permanent USCS/USCG task force has been created.

The USCG, in the past, has provided valuable participation and resources toward our interdiction efforts. We anticipated that the contribution will continue.

Question. Describe the operational approaches used by the Customs Patrol and inspectors to intercept drug smugglers. Where is the primary emphasis of the program now? Have additional officers and agents been deployed? If so, where? What will be the impact of the budget request on drug interdiction efforts?

Answer. Despite the variety of threats, our primary mission is to stem the flow of illicit narcotics and contraband, emphasizing hard narcotics and large drug/contraband shipments. A comprehensive narcotics enforcement strategy using existing resources is yielding increased interdiction results. For inspection the foundation is selective enforcement against persons, carriers and cargo at our ports of entry, better profiling, interview and examination techniques and more precise targeting of suspect individuals, conveyances and shipments.

For Patrol, now the Tactical Enforcement Division operational approach is: use of intelligence; undercover operations; investigations that lead to interdiction; threat analysis to determine areas of greatest enforcement need; reliance on high technology for detection, sorting, and tracking suspect aircraft and vessels; and Special Enforcement Operations that target specific drug threats. These Special Enforcement Operations have covered all areas of Customs responsibility, producing significant arrests and seizures.

Inspectional Approaches

In passenger processing, we have implemented the Border Processing Improvement Plan (BPIP) at land ports of entry and red/green or one-stop processing at our airports. These systems use the proven inspection techniques of observational profiles, behavioral analysis and the roving officer concept.

To complement improved effectiveness of the inspection force in narcotics interdiction, new initiatives are being implemented:

> The Carrier Initiative, which involves cooperative efforts between U.S. Customs and air and sea carriers to deter narcotics smuggling, is being pursued nationally and internationally.
>
> The development of prearrival enforcement information systems using advance cargo and passenger manifests and bills of lading so that inspectors can

perform a series of enforcement checks in order to target specific individuals and shipments.

The increased use of limited special narcotics enforcement operations to target specific carriers, locations, commodities, importers and times where intelligence and analysis indicates we are most vulnerable.

The enhancement of the narcotics detector dog program through improved training, redeployment of resources to high risk areas.

The development and deployment of new technology such as fiber optics, passport readers, high resolution x-rays and narcotics vapor detectors.

Tactical Enforcement

Customs has tested a module concept for marine and air interdiction. Success of the marine module test in Tampa in FY 1983 led to implementation of marine modules in Ft. Lauderdale and Ft. Myers, Florida in FY 1984. Another eight high-threat locations are scheduled to receive marine modules in FY 1985. Each module unites a radar platform vessel with two Customs interceptors equipped with state-of-the-art communications and surveillance equipment.

For commercial vessels, Tactical Enforcement has developed the Freighter Interdiction and Surveillance Team (FIST) approach using intelligence and covert surveillances. Operating in a major seaport, the FIST team targets vessels, crewmembers and other individuals suspected of drug smuggling.

In terms of additional officers Customs recently added 80 new positions to marine enforcement activity. Our area of greatest threat, the Southeast Region, gained 60 of these positions.

In order to ensure more effective results within available resources, Customs is reevaluating the current deployments of personnel and related equipment. Customs will reallocate resources from areas of lower threat to those of intensive smuggling activity. Customs will rely on vessels from seizures that are suitable for Marine Program requirements. To the extent possible, we will use resources from the Customs forfeiture fund to equip these vessels.

Question. What is the current Customs role in the regional drug enforcement task forces?

Answer. Customs has been an active member of the Organized Crime Drug Enforcement Task Force (OCDETF) since the OCDETF's inception in February 1983. The OCDETF consists of special agents and support personnel from U.S. Customs, Internal Revenue Service (IRS), Drug Enforcement Administration (DEA), Federal Bureau of investigation (FBI), U.S. Marshals Service, U.S. Coast Guard and the U.S. Attorney's Office.

The four priority objectives of the OCDETF are:

1. To target and prosecute high-level drug traffickers.
2. To encourage maximum cooperation among Federal drug enforcement agencies.
3. To work harmoniously with state and local drug enforcement agencies.
4. To make optimum use of financial investigative techniques, including forefeiture actions and tax law enforcement.

Customs has met all four OCDETF objectives.

Customs has assigned 142 special agents, 33 intelligence analysts and 25 support staff to OCDETF. In FY85, these employees were assigned to 13 core cities, 15 noncore cities and 9 non-funded cities.

Statistical data resulting from Customs participation in OCDETF investigations in FY85 underlines the efficacy of Customs contribution to the OCDETF mission.

Fiscal year 1985 (through Dec. 26, 1984)

[Only cases involving Customs participation]

1. Arrests	193
2. Indictments	369
3. Currency sized (million)	$4.4
4. Property sized (million)	$11.5
5. Narcotics seizures:	
a. Cocaine (kilos)	3
b. Heroin (kilos)	12
c. Marijuana (kilos)	2,000
d. Other (kilos)	2,401

The most recent OCDETF investigation (Operation CHECKMATE) involving a significant contribution by the U.S. Customs Service occurred in Miami, Florida. On February 1, 1985, U.S. Customs, DEA and IRS agents arrested 17 drug traffickers and seized $1,325,096 in cash/checks, 9 firearms and 11 late model automobiles.

Question. Please furnish a copy of the Service's 5-year Plan for the period FY 1986–1990. What resource requirements (dollars and average positions) are projected for fulfillment of the plan? How much of these can be supplied from internal productivity gains?

Answer. There is no official 5-year Plan for the Customs Service.

Question. What is the Service's estimate of the commercial fraud threat from all sources—unreported products, counterfeits, trade program violations, etc.,—over the next 5 years? What customs resources are required to cope with this threat? In view of the present increasing trend of commercial fraud, what resources are required to reverse the trend?

Answer. Trade restrictions and new regulations on country of origin are expected to lead to increased fraud to circumvent these obstacles to foreign producers. Using FY 85 as a base, the level of fraud is projected to increase approximately 25 percent over the next 5 years. The fraud threat is derived from various sources, which include the affected industries, Customs officers, other government agencies, and through liaison with foreign government. The estimated values of commodities imported in violation of existing agreements and regulations for the next 5 years are projected in the millions of dollars.

Commodity	Fiscal year—					
	1985	1986	1987	1988	1989	1990
Textiles [1]	450	473	495	518	540	563
Steel [1]	500	525	550	575	600	625
Other [1]	425	446	468	488	510	531
Counterfeit goods [2] [3]	10.5	11	12	12.5	12	12

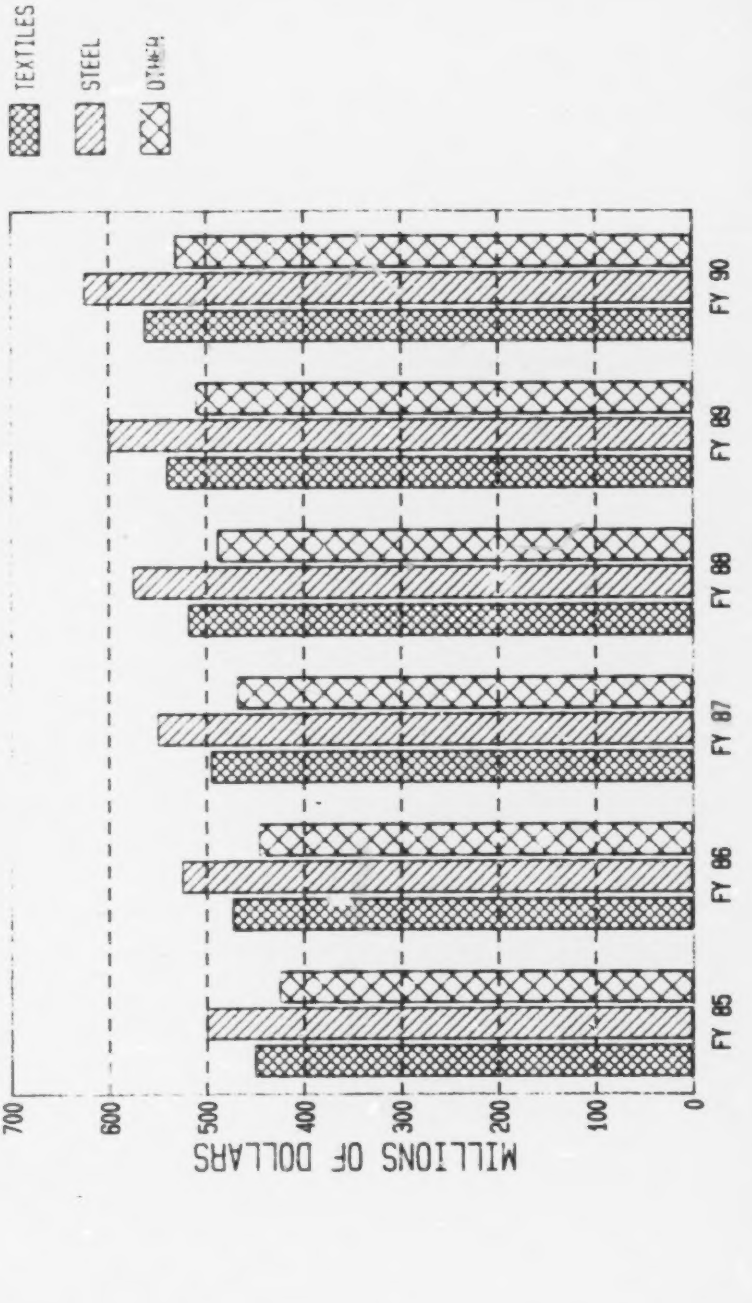
[1] Millions of dollars.

[2] These projections are based on an improvement of countermeasures used by Customs, causing a decline in counterfeit importation attempts.

[3] Billions of dollars.

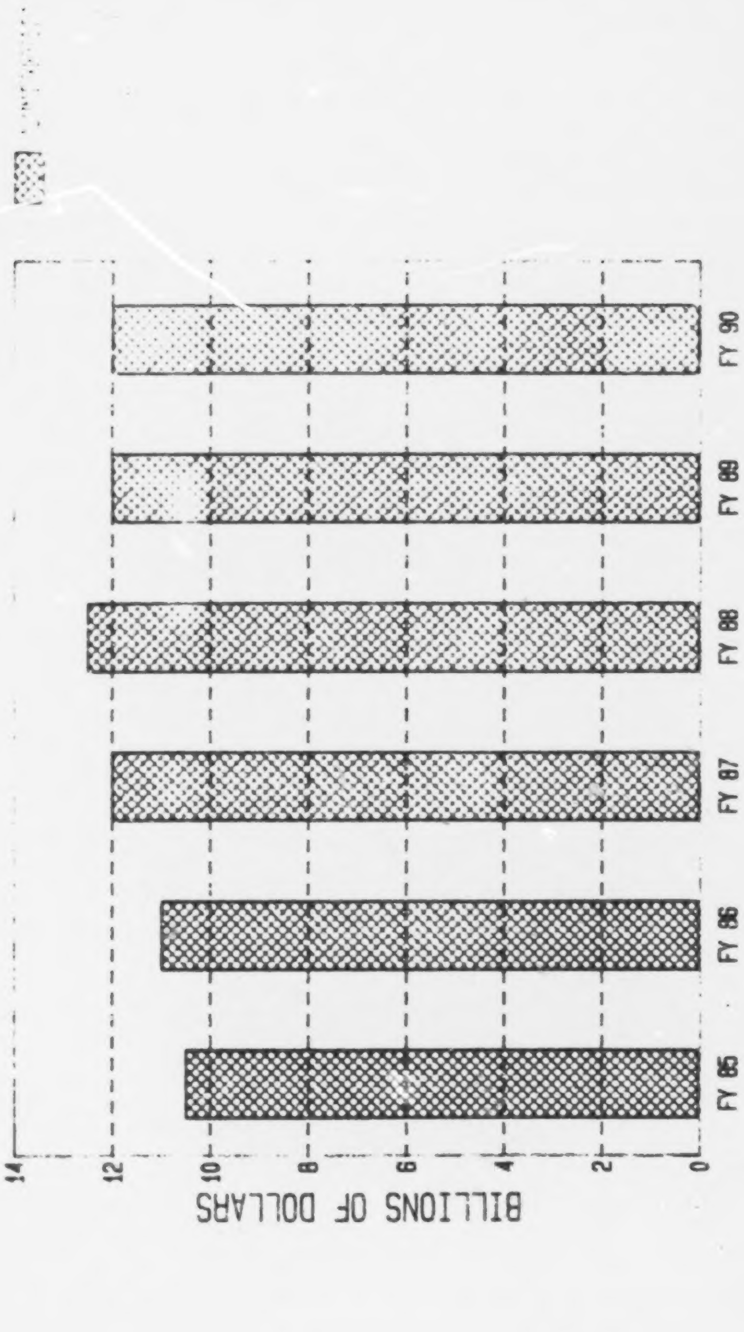
Other commodities include such items as coffee, sugar, electronics. Counterfeit goods cover a wide gamut of items from designer clothes, computers, dolls, and watches.

Improved management of current resources through such efforts as automation, organizational restucturing and reallocation has brought about a level of operation adequate to cope with the ongoing fraud threat.



PROJECTED VOLUME OF FRAUDULENT GOODS FOR KEY PRODUCT GROUPS

PROJECTED VOLUME OF COUNTERFEIT GOODS



Question. What percentage of commercial fraud referrals are made by import specialists? What is the total number of commercial fraud referrals annually for FY 80-84? What percentage of referrals result in cases being opened in Investigations? How are the remaining referrals disposed of? Has Customs estimated the resources required for increased follow-up of fraud referrals, and the potential payoff of increased fraud deterrence from such action?

Answer. A new reporting system adopted in January will start to capture fraud referral statistics. Customs Service records indicate that in FY 84, 36 percent of all fraud cases were opened independently by special agents. Thirty percent of the fraud cases opened in FY 84 were based on information supplied by import specialists and 12 percent were opened based on information supplied by Customs inspectors. A total of 1,186 fraud cases were opened in FY 84 and of those, 179 cases were class 1 cases based on import specialist referrals. Those cases not investigated were referred to the District Director for administrative penalty action without further investigatory action.

In reference to resources required, it is Customs policy to redirect investigative resources as the need arises. Therefore, as the threat of commercial fraud has been identified as increasing, in order to reverse this trend, Customs has been redirecting resources from other areas into commercial fraud. In FY 82, there were 55 special agents working fraud. In FY 83, 85 agents; in FY 84, 127 agents; and it is anticipated that in FY 85, 150 special agents will be engaged in fraud investigations. In addition, import specialists will be utilized for administrative processing of cases.

Through the utilization of on-hand resources, numerous initiatives have been instituted to further counter the growing trend of commercial fraud. One example is the continued use of fraud task force operations. These operations provide the Government with high quality criminal and civil cases while making maximum use of available resources. At present, task forces are targeted at high-risk industries, i.e., EEC Steel, Textiles, and counterfeit goods.

Question. What resources are required to implement the new voluntary steel marketing agreements recently negotiated with the European Economic Community and other countries? Where will these resources come from?

Answer. Special Summary Steel Invoices (SSSI) are currently required for all basic steel mill importations. A worksheet with identifying information is attached and forwarded to the Department of Commerce. In addition, under the EC arrangement a certificate is matched with the above documents. The EC arrangement will be a model for further Voluntary Restraint Agreements (VRA).

It is not anticipated, therefore, that any additional resources will be needed to implement these new agreements since, generally, the same personnel responsible for steel entries will be responsible for market agreements.

Question. What is the status of the proposed Customs/INS primary inspection consolidation? Has a final memorandum of understanding on implementation been agreed to by the Treasury and Justice? Has an additional data been developed on the cost effectiveness of the proposal? What is Customs plan for consolidation of primary inspections at airports?

Answer. The Administration proposed consolidationg all primary inspections at airports under the Customs Service and all land border functions, including primary inspections and border patrol, under the Immigration and Naturalization Service. This proposal builds on recommendations of several Committees of the Congress, interested groups in private industry and the President's Private Sector Survey on Cost Control (Grace Commission).

Since the Congress did not authorize this proposal, it could not be implemented. Consequently, there has been no final approved memorandum of understanding between Justice and Treasury and no additional data has been developed on the proposal.

Question. Customs has previously reported that in FY 1980 it inspected 81,234 of 2.8 million containerized shipments. Please provide comparable figures for FY 81-86.

Answer. The figure representing the number of inspections performed in FY 80 is incorrect. The correct number of inspections for FY 80 is 192,734 of 2.8 million containerized shipments. Comparable figures for FY 81-86 are as follows:

	Fiscal year—					
	1981	1982	1983	1984[1]	1985[2]	1986[2]
Containerized shipments (million)	3.1	2.2	2.3	3.3	4.0	4.8
Containerized inspections	215,805	186,800	112,843	93,047	95,000	98,000

[1] Beginning in fiscal year 1984, inspection figures reflect Customs selectivity approach

[2] Projected figures

Question. Please provide a detailed description of your proposal to consolidate regional administrative functions. How many full-time and part-time employees are currently in each region performing these funciton, and how many will be left after this consolidation? Will all employees be given the opportunity to transfer? Why was Indianapolis chosen as the site for the financial functions when an independent study recommended four other cities? What cost savings will result from this consolidation?

Answer. The administrative support services provided in the Seven Customs ragions and Headquarters will be transferred to central locations. Current plans call for administrative functions to be centralized in the following manner: personnel and management analysis functions will be performed in the Headquarters; accounting and field logistics functions will be located at a center to be opened in Indianapolis in the late spring.

The following is the number of current permanent employees potentially affected by these centralization efforts:

Region	Full-time employees	Part-time employees
Northeast	83	4
New York	155	9
North Cental (Chicago)	69	7
Southeast (Miami)	90	4
South Central (New Orleans)	45	2
Southwest (Houston)	93	0
Pacific (Los Angeles)	79	15
Total number of employees	614	41

We are in the process of determining how many administrative positions, if any, will remain in each region to accomplish residual functions.

Customs intends to accomplish centralization of administrative functions with minimum adverse impact on our employees. This effort will be carried out in strict accordance with governing federal personnel regulations and will follow the terms of the national agreement with NTEU for unit employees.

Question. Provide a detailed analysis of any proposed changes in the current number of regional, district and port offices, including a listing of locations proposed to be closed, an estimate of the likely budget savings which will result and an assessment of the potential impact such closing would be likely to have on the trading community.

Answer. Customs is considering a more efficient organization for its Regions, districts and ports. The following changes are proposed:

Regions/Districts/Appraisement Centers

Customs is proposing to redesignate 18 of 45 districts and 30 of 57 appraisement centers. Under current plans, Customs will operate through 27 full service districts, which will include all enforcement, inspectional, and appraisement functions. The criteria for redesignation are based on establishing a single appraisement for each district, workload (e.g., entries, value of imports, etc.), and other special circumstances. In addition, Customs will review the regional functions and configuration with the objective of establishing a six region field organization.

Reimbursable Ports of Entry Proposed

Under this concept, ports of entry that did not meet minimal workload standards would be requested to pay for inspectional services. The standards are the same as those used to test whether a new port should be opened. Current plans are for 40 interior, 120 seaports, 61 northern border ports, and 5 southern border ports to be reclassified as reimbursable. As to the size of these ports, most are staffed by less than 3 inspectors, others do not have regular duty hours. Projected reimbursements range from $50,000 at a port with a single shift inspector to $250,000 for the largest ports.

Customs does not intend to close any of the ports. Instead, local or state communities or business firms benefitting from the Customs services will be requested to pay an annual reimbursement of costs to the Government. To implement this proposed new legislation is required to permit Customs to seek reimbursement without actually closing any of the ports.

Other Management Initiatives

Additional initiatives proposed are to centralize drawback and consolidate Customs laboratories. For drawback, Customs will consolidate current activities in nine locations into a single processing center for drawback. The criteria used for implementing centralization are the availability of automated processing through the Automated Commercial System (ACS), merchandise claims processed in the districts, and other specialized commodity processing; Customs is considering consolidating all field laboratory analyses at two locations. Laboratories will be situated on the east and west coasts.

The budget savings projected from these actions are as follows:

	FTE	Thousands
Districts/Regions/Appraisement Centers	300	$11,248
Ports (Converted to reimbursable basis)	111	4,105
Laboratories/Drawback	66	3,008
Total savings	477	18,361

U.S. CUSTOMS SERVICE FISCAL YEAR 1986 REDESIGNATED DISTRICTS

Portland, MA, St. Albans, VT, Providence, RI, Norfolk, VA, Wilmington, NC, Washington, DC, Mobile, AL, El Paso, TX, Portland, OR, Minneapolis, MN, Duluth, MN, Milwaukee, WI, St. Louis, MO, Houston, TX, Anchorage, AK, Port Arthur, TX, Great Falls, MT.

REMAINING DISTRICTS/APPRAISEMENT CENTERS AFTER CONSOLIDATION

REMAINING DISTRICT	DISTRICT CONSOLIDATED	PORT CONSOLIDATED
Boston	Providence	
	*Bridgeport	Hartford
Ogdensburg (Champlain)	Portland,Mn	
	St. Albans	
Buffalo		
Philadelphia		
Baltimore		
New York		
Newark		
JFK		
Charleston,SC	Wilmington,NC	Charlotte
	Norfolk	
	Washington,DC	
Savannah		Atlanta
Tampa		Jacksonville
San Juan		
Virgin Islands		
Miami		Port Everglades
New Orleans	Mobile	
Laredo		San Antonio
		Brownsville
		Hidalgo
	El Paso	
Nogales		Phoenix
Dallas	Houston	
	*Port Arthur	
San Diego (San Ysidro)		Calexico
Los Angeles		
San Francisco		
Seattle		Blaine
		Tacoma
	Portland,Or.	
	*Anchorage	
Honolulu		
Pembina	*Great Falls	Denver
Chicago	Minneapolis	
	Duluth	
	Milwaukee	
Detroit		Port Huron
Cleveland	St. Louis	Kansas City
		Cincinnati

*Not presently an appraisement center

Question. Provide information about any current Customs proposals to collect "Customs processing charges" or user fees. What categories of services are being considered for fees? Which existing fees are to be increased? How much revenue would be collected?

Answer. Customs is studying potential legislation authorizing the Secretary of the Treasury to prescribe and collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the United States in an amount sufficient to reimburse the Government for all costs. The costs would be paid by the recipient of the service. In addition, the proposed legislation would authorize fees for entry of merchandise into and withdrawals from a Customs bonded warehouse, for admission of merchandise into and removal from a foreign trade zone, and in-bond transportation of merchandise. Furthermore, the proposed bill would amend other laws to make them consistent with this user-charge philosophy.

To determine the charges, the Customs Service has analyzed its operations and derived fees to be charged to cover the costs of certain services provided, except for enforcement costs. Both direct costs (e.g. an inspector's salary for average time of inspection) and indirect costs (e.g. spreading the costs of overhead and support systems over a number of inspectors) of processing merchandise, conveyances and persons, would be included in the determination of the fees.

Customs presently administers user charges (generally reimbursable agreements) of direct additional expenses for specific services. The most prominent of the user fee program is the "vessels and foreign domestic trade" activity. Under the authority of the "Customs Procedural Reform and Simplification Act of 1978", Customs has been charging and collecting fees for specific services provided to vessels. The types of services for which fees are chaged are the entry of vessels, clearance of vessels, issuing permits to foreign vessels to proceed from district to district, receiving a manifest of foreign vessels and granting a permit to unload, and other similar services.

In contrast to current fees which reflect reimbursement for additional services, Customs may propose new legislation authorizing it to recover the costs of all services, except those for enforcement activities. The proposed legislation would encompass most of the operations of Customs. As projected, if the fees were imposed on all merchandise importantions, conveyances, almost all travelers, they would amount to about $500 million in FY 1986. The activities proposed for user fees and included in the above projections are as follows:

A. Merchandise Imports

Formal entries, drawback entries, warehouse entries warehouse withdrawal, informal entires, mail entries, in-bond shipments, foreign trade zone transaction, and broker licenses.

B. Conveyenances and Travelers

Commercial carriers: vessels, aircraft, trucks trains, yacht and pleasure boats, and general aviation.

Passengers: Train, vessel, vehicle (land border), and pedestrians (land border).

Question. Do you anticipate closing any Customs laboratories in FY 86? If so, which labs, what is the projected savings, and what operational impact is it likely to have?

Answer. A final decision on closing Customs laboratories will not be made until the internal staff study is completed ot determine the best structure for full utilization of the Customs laboratories.

Customs currently has six field laboratories located in New York, Savannah, New Orleans, Los Angles, San Francisco, and Chicago. Over the past several years, Customs has studied the number of laboratories and determined that consolidateion of facilities may be operationally justifiable, providing advantages in economies of scale, better career ladders for employees, and more efficient siervice to its primary "customers," the import specialists. In addition, fewer laboratories would produce long-term budget savings, expecially in space rental costs since laboratory space is billed a premium rates. Based on preliminary studies by the Treasury Department, the location os a laboratory facility is irrelevent to meeting its mission. Timeliness factors for sample turn-around can be controlled by good management follow-up and status reports to the import specialists if unavoidable delays occur. Significant savings will occur as a result of returning to GSA the space now occupied by the laboratories to be closed. Consolidation can give Customs a laboratory configuration wel matched to workload and resources. Sample turn-around times can be maintained for many samples; i.e., about 80% will be analyzed within 45 to 60 days. There will be slight increase in the turn-around time for the remaining samples from reports issued within 90 days of reciept of sample to about 110 to 140 days.

This way not affect the overall Customs processing time, however because much of Customs processing time occurs outside the laboratory; i.e., entry clerk processing, import specialist review, etc. Liquidation times within 1 year should therefore be maintained. Sample turn-around time for some commodities, however, may improve with the availability of a more diverse staff in each laboratory.

Question. What is the status of the centralization or reduction of full service duty assessment locations? How many and which locations would be subject to change?

Answer. Under our current proposal, 27 district/appraisement locations would be responsible for the full range of Customs commercial processing. However, this will not result in any diminution of our ability to release cargo and to accept entries at current processing centers.

Question. Describe the proposal to consolidate the number of drawback liquidation units. How many and which locations would be subject to change?

Answer. There were three proposals to consolidate: (1) by region; (2) by commodity; and (3) by region and commodity, as follows:

(1) Consolidation by region could be (a) at one location (Chicago), or (b) at four locations (New York, Houston, Los Angeles and Chicago). Currently, drawback liquidations take place at nine locations. Under (a) all but Chicago would disappear as sites for the liquidation of manufacturing drawback claims, even though the claims could still be filed at those locations. Under (b) the liquidation functions at Boston, Baltimore, Miami, New Orleans and San Francisco would cease except for claims involving same condition, rejected, substituted and trade-off merchandise (1313 (c) and (j)).

(2) Consolidation by commodity would not dissolve any of the nine current locations. Under this concept, if one liquidation unit within a region processes a large national percentage of drawback claims relating to a particular commodity, that liquidation unit would process all of the drawback claims for that commodity for the entire country. Drawback entries filed at any location would be transferred to the location specializing in processing drawback claims with regard to a particular commodity.

(3) The consolidation by region and commodity would dissolve the liquidation of manufacturing claims down to one location, or four locations, whichever is selected. Each liquidation unit would process and liquidate all claims relating to a particular commodity selected for that location; e.g., petroleum, in Houston; aircraft and spacecraft, in Los Angeles, etc., if done at more than one location.

I have determined that the most effective and efficient way to handle the drawback program is at a single location—and, I have directed my staff to promulgate the appropriate rulemaking.

Question. What is the status of Custom's proposal to assess interest charges on estimated duties prior to the end of the 10-day deferral period. What would be the estimate on revenue collected or saved?

Answer. No action is presently being contemplated concerning the assessment of interest charges on estimated duties not paid until the close of the 10-day deferral period. Approximately $9 billion in duties on consumption entries, was collected in FY 1984 subject to the 10 work day deferral period. Based on a 14 calender day improvement in cash flow (approximately $345 million) at an annual interest rate of 10 percent, estimated annual interest savings is $34.5 million.

Question. How is the Automated In-Bond System working? Does the system, continue to be a secure and accurate source of information for tracking in-bond shipments?

Answer. A revised Automated In-Bond System was implemented in October 1984, as a part of the Automated Commercial System. This revised in-bond system contained some new optional features and was capable of being integrated with the Automated Broker Interface (ABI) and the proposed Automated Manifest. The system is functioning well, although some minor programming changes have been made and some Customs ports are behind in their entry of data into the system due to a shortage of personnel. The system continues to be a simple and secure source of information for tracking in-bond shipments. The accuracy of the system depends on the timely input of data, and because of the growth in the number of in-bond shipments and the lack of sufficient data entry personnel at some high volume ports there continues to be some problems in matching the departure and arrival data.

Question. Customs is considering moving to a system of clearing and inspecting in-bond shipments at first port of entry rather than at bonded warehouses and foreign trade zones. If this is implemented, what additional inspectional resources would be required and where would they come from?

Answer. Customs will propose examining merchandise destined for foreign trade zones at the port of arrival of the merchandise. The FTZ proposal will be made through a Notice of Proposed Rulemaking, and will enable FTZ's to exist where there is no port of entry. No additional inspection resources would be required. The proposal would be to examine merchandise in ports of arrival rather than at scattered zones in the far reaches of the United States, so as to conserve Customs staffing.

Question. Has there been any evaluation of the new post-audit warehouse system since its inception? What is the quality of the data in the reports required to be furnished by bonded warehouse operators? Provide a summary of results of regulatory audits performed since the new system went into effect, and a summary of audit results under the former system. How many staff-years were allotted to physically spot-checking warehouses in FY 1984, and how many inspections were performed? What is the total number of bonded warehouses? What was the total value of merchandise entering foreign trade zones in 1984? How many bonded warehouses are located in foreign trade zones?

Answer. An evaluation was made of the implementation of the warehouse audit-inspection program by the Office of Internal Affairs in October 1983. No other Headquarters evaluation has been made.

The quality of data in annual warehouse proprietors' reports has generally been good. Where such reports have been late or incomplete, proprietors are subject [illegible] liquidated damages of $100 per day of default. Since the audit-inspection program went into effect, Customs has conducted 318 audits, collected $469,000 in additional duties, and assessed liquidated damages of $1,576,000. The former system relied on physical supervision of warehouses, not the audit-inspection approach, and no audits were conducted. In addition, Customs closed 8 warehouses for noncompliance with the law and regulations.

Headquarters allocated 35 staff-years to warehouse spot checks during FY 1984. Customs did not record the number of inspections, but rather the number of staff-years actually devoted to spot checks.

At the end of FY 1984, there were 1,533 warehouses, which received a total of $8.2 billion worth of merchandise. The total value of foreign merchandise received in foreign trade zones was $1.0 billion. Bonded warehouses may not be located in foreign trade zones. However, they are next door to zones in Miami and San Francisco.

Question. What is the current status of the proposed regulations substantially changing Customs procedures relating to foreign trade zones? Are these regulations intended to be consistent with those applicable to bonded warehouses?

Answer. A Customs task force is reviewing the comments received about the proposed regulation changes, so a draft Final Rule can be prepared. General principles of audit-inspection, e.g., examination before deposit, permit before deposit or removal, use of spot checks and audits, higher liquidated damages, elimination of physical supervision, etc., will be the same for bonded warehouses and foreign trade zones. However, the application of these principles will be different in some procedures because of differences in the laws governing bonded warehouses and foreign trade zones.

Question. Describe in detail current Customs procedures for passenger clearance at airports. What changes have been made following the experimental ASIST test? Have passenger processing times been reduced at JFK and Miami International Airports? Has the "red/green" passenger inspection system been expanded to other international airports?

Answer. The Customs recommendation for expediting air passenger clearance is two-pronged. We have identified airports where facility changes can be made and where procedural changes can be implemented.

We recommend at airports undergoing major renovation of existing terminals or new terminal construction, either a joint Customs/INS primary process (one-stop) or a design that will provide for an efficient single-level Federal inspection processing system that will utilize a red/green system in conjunction with citizen bypass.

We have trained inspectors at our 22 largest airports in the applicaiton of observational profiles and stress analysis. This training provides inspectors with a tool that permits them to more rapidly assess whether or not a passenger warrants further inspection. In addition to this training, we are working closely with our airport managers in order to further refine passenger inspection selection criteria, make better use of resources, and introduce new operational procedures. We have also completed a successful test of the automatic passport reader at O'Hare International Airport and installed 16 of these devices at the new Tom Bradley International Terminal in Los Angeles. We have evaluated each major airport's citizen to alien ratio so that the future deployment of these machines can realize maximum efficiency.

The ASIST system died not produce any significant increase in passenger facilitation, nor did it meet our inspectional enforcement objective. While ASIST appeared to be a viable alternative on paper to our enforcement/facilitation problem, it fell far short of desired results when tested under actual operation. although facilitation at Miami was improved by about 10 percent, enforcement results declined in every significant category, i.e., arrests and drug and currency seizures. In addition, at Los Angeles, there was a significant decrease in both facilitation and drug seizures. There was a general increase in seizures, but not in those areas involving criminals.

The ASIST system at Miami was replaced in November 1982, by a two-stop system utilizing voluntary passenger selection (red/green) lanes for facilitation with observational profiles and stress analysis training for enforcement purposes. In January 1983, citizen bypass was instituted at Miami, further increasing facilitation. Recent statistics provided by the Dade County Aviation Authority show that the average through-time for the Federal Inspection processing was reduced from 45 minutes in 1982, to 32 minutes in 1983 and 1984, a 29 percent increase in facilitation. At the same time, enforcement results have increased by augmenting normal inspections with roving inspectors in the baggage claims area. These inspectors identify both low and high-risk travelers. After a brief interview by the roving inspector, the low-risk travelers are allowed to depart the Customs areas using a bypass lane. Travelers identified as high-risk are sent into the red or secondary area for a more intensive inspection.

To further enhance facilitation/Customs have been implementing red/green systems at selected two-stop airports similar to Miami. These systems utilizing red/green self-selection mode whereby a passenger may elect a red/green inspection lane for Customs purposes. This self-selection reduces screening and processing time for 80 percent of the travelers who need no further Customs attention.

At New York's JFK Airport, the largest and busiest international passenger terminals have experienced a 13 percent increase in passengers in FY 84 with no increase in Customs staff and have actually had fewer complaints on processing. The number of seizures increased 64 percent in the same period.

Red/green processing is at 10 of our top 20 airports and processes 67 percent of commercial air passengers. We are planning to expand it to an additional 3 airport and will then process 77 percent of passengers this way.

In summary, we believe that processing systems must be tailored to the individual airport based on facility configuration, passenger volume, and enforcement threat.

Question. Will the proposed FY 86 budget have an effect on Customs ability to handle passenger processing and inspection in an efficient manner?

Answer. We believe that our current initiatives such as the establishment of selectivity as the foundation of our processing system, improved training and management oversight, and the implementation of facilitative measures such as one-stop processing and/or red/green systems with citizen bypass, will increasingly expedite the processing of international air passengers while providing significant management efficiencies. At the precent time, major international airport facilities are adequately staffed to handle the overall passenger volume.

However, facility saturation and delays do occasionally occur because of a problem commonly referred to in the airline industry as "peaking". Because of the need to accommodate passenger through connections, ensure maximum use of equipment, and avoid foreign curfews, many carriers arrive during a narrow time frame. As a result, airport facilities and the Federal Inspection Services are taxed beyond reasonable limits for short periods of time. This is not to say that a carrier or carriers could not arrive at a particular location; rather, we would not permit these additional arrivals during a specific time period when a facility has reached its saturation level. This denial of landing rights would most probably occur at those airports that have traditionally had compressed landing "windows" where we have already responded with the options delineated above.

Question. Describe in detail the Customs Air Interdiction Program. How many aircraft does Customs now have in its fleet? What is its value and the estimated maintenance costs for fiscal year 86? In which regions are the planes deployed? Provide the same information for the Marine Patrol.

Answer. The smuggling of contraband by aircraft is a major Customs enforcement problem. In response to this problem, the Air Interdiction Program was established with the primary objective of significantly inhibiting the smuggling of contraband by private aircraft. The air interdiction effort uses strategic and tactical intelligence to select the optimum times and places for interdiction operations, monitors detection systems to identify intrusions and utilizes special sensor-equipped and other aircraft to intercept and track suspect aircraft. Primary activities include detecting, identifying, intercepting, tracking and apprehending aircraft engaged in smuggling contraband.

In order to accomplish their mission, Air Program personnel conduct in-depth investigations in order to identify individuals or organizations and aircraft dedicated to the smuggling of contraband. They monitor a wide range of sophisticated radar and other electronic detection systems in order to detect suspect aircraft. They utilize a wide range of aircraft, some equipped with highly sophisticated electronic tracking devices in order to intercept and track the suspect aircraft to its destination, and they arrest individuals and sieze aircraft, vehicles, and contraband involved in the violation.

An integral part of the Air Interdiction Program mission is to provide assistance and support to the Marine Interdiction Program. The air program provides airborne radar detection capabilities, surveillance, and communication support to marine units. In addition, the air program has dedicated aircraft that are specifically assigned to the marine interdiction effort.

The Customs Air Interdiction program utilize a network of FAA and military radar facilities as its primary detection network, with additional detection support being provided by three aerostats, and one P-3A aircraft. Three additional P-3A aircraft are expected to become operational during FY 85.

Customs currently has 76 aircraft in its interdiction fleet, including military assets on loan from DOD. Six of Customs owned aircraft are slated for disposal through the exchange/sale program. The approximate value of the Customs fleet is $38.3 million; this does not include the value of military assets. The estimated cost for maintenance during FY86 is $42,625 million as shown:

Regular air program

Transportation (of equipment)	$175,000
Utilities comm's & rents	950,000
Contract (maintenance) Services	8,500,000
Fuel & Supplies	3,400,000
Equipment & (i.e. engines)	900,000
Subtotal	13,925,000
O&M Black Hawks	6,600,000
O&M P-3A's	15,400,000
Misc. spares	700,000
Lease of Citations	2,300,000
O&M of Citations	2,000,000
O&M CHET	1,700,000
Subtotal	28,700,000
Total	42,625,000

Customs aircraft are deployed strategically along the entire southern border of the U.S. An Air Interdiction Unit was established in New York, N.Y., in January of 1985. Customs Regions having Air Branches and aviation resources are: New York, Southeast, South Central, Southwest, and Pacific. Major Air Branches are: Jacksonville and Miami, FL; New Orleans, LA; Houston, San Antonio and El Paso, TX; Tucson, AZ; and San Diego, CA.

Question. Describe in detail the Customs Marine Patrol Interdiction Program. How many vessels does Customs now have in its fleet? What is its value and the estimated maintenance costs for fiscal year 86? In which regions are the vessels deployed?

Answer. The Customs Service has designed a comprehensive marine interdiction program. The program integrates enforcement tactics and techniques, logistics and maintenance requirements, and state-of-the-art technology.

Tactics include deployment of vessels to establish a marine radar detection net. Further, vessels are employed for target interceptions, surveillance, reconnaissance, and undercover activities.

The marine maintenance program is being reorganized. Customs has prepared a national vessel maintenance program which is targeted for implementation in the next several months, pending the procurement process. A national program will provide several benefits including a more consistent level of maintenance performance, effective cost controls, and long-range planning.

New technology is now being employed in our enforcement efforts. A P-3 aircraft is being tested for use in the marine environment. In addition, Customs aircraft are dedicated as air support for marine interdiction in Miami, Florida; New Orleans, Louisiana; Houston, Texas; and San Diego, California. At other locations, Customs aircraft are dedicated to marine support on a regular basis. We are preparing an interface plan which will combine the proposed Marine HF ana current Air Operations HF systems. An evaluation is being conducted on the applicability of miniaturized transceivers for tracking suspect vessels. Customs is exploring the cost and feasibility of employing tethered aerostats for marine interdiction. Alsxo, we are converting the communication system to a voice privacy mode and exploring the use of satellite tracking.

At the present time, the Customs marine fleet consists of 134 vessels in various configurations. The present value of the fleet is approximately $5.57 million. Estimated maintenance and operating cost will be appproximately $4 million for fiscal year 86. There are 2 vessels in the Northeast Region, 4 vessels in the New York Region, 67 vessels in the Southeast Region, 27 vessels in the South Central Region, 15 vessels in the Southwest Region, and 19 vessels in the Pacific Region. .

Question. List the results of the air module approach, i.e., how many smuggling aircraft has Customs intercepted and seized and where. What is the relationship of interdiction or seizures to the estimated overall influx of narcotics?

Answer. Miami is the only Branch where the Air module is in operation.

Attached chart #1 shows seizures for Miami compared to other Air branches for CY 1983 and 1984. These seizures are for interdiction activities only and do not reflect case work or marine assist.

The statistics for the estimated overall influx of drugs entering the United States is broken down by Region only, and data for individual Air branches is not available. Attached chart #2 shows a comparison of the estimated threat and interdiction seizures on a national basis and for the Southeast Region.

CHART #1

SEIZURES FOR CY 83 AND 84

	1983			1984		
	A/C	MARIJ. LBS.	COCAINE LBS.	A/C	MARIJ. LBS.	COCAINE LBS.
Miami	12	3,180	600	16	8,727	1,977
Jacksonville	14	4,920	934	5	1,713	1,113
Tampa	1	200	000	5	1,512	000
Pensacola	3	000	815	2	1,080	1
SE REGION TOTAL	30	8,300	2,349	28	13,032	3,091
New Orleans	2	60	000	2	1,608	000
Houston	2	254	000	7	2,502	1,992
San Antonio	6	24,423	4	4	1,097	000
El Paso	5	[illegible],108	000	0	000	000
Albuquerque	1	400	000	4	1,203	000
Phoenix	2	250	000	0	910	000
Tucson	2	3,235	000	2	1,405	000
San Diego	6	1,896	000	0	000	000
SW, S.C. & PACIFIC TOTAL	26	35,626	4	19	8,725	1,992
AIR TOTAL	56	43,926	2,353	47	21,757	5,083

CHART #2

COMPARISON OF ESTIMATED PRIVATE AIR SMUGGLING THREAT
AND SEIZURES FROM PRIVATE AIR

1983

NATIONAL			SE REGION	
	EST. THREAT	SEIZURES	EST. THREAT	SEIZURES
Marijuana	1,416,585 lbs.	43,926 lbs. (3.1%)*	752,748 lbs.	8,300 lbs. (1.1%)*
Cocaine	47,788 lbs.	2,353 lbs. (4.9%)*	17,482 lbs.	2,349 lbs. (13.4%)*

1984

NATIONAL			SE REGION	
	EST. THREAT	SEIZURES	EST. THREAT	SEIZURES
Marijuana	1,416,585 lbs.	21,757 lbs. (1.5%)*	752, 748 lbs.	13,032 lbs. (1.7%)*
Cocaine	46,703 lbs.	5,083 lbs. (10.9%)*	20,313 lbs.	3,091 lbs. (15.2%)*

* Percent of estimated threat actually seized

Question. What is the estimated impact of the FY 86 budget request on Customs air fleet capabilities?

Answer. The FY 86 budget request includes funding for Customs to maintain the current capabilities of its air fleet and provides for the following enhancements:

Research and Development of a Prototype 360 Degree Radar Air Detection ($5,000,000).

With a potential range of 100 miles, a 360 degree radar would greatly increase detection capabilities beyond that possible with the present forward-looking APG 63 radar. This funding will be used to design the radar hardware and software needed to provide the long-range 360 degree capability required for this program.

Modification of C-12 Aircraft ($5,000,000).

Customs is scheduled to receive six C-12 aircraft on loan from DOD during FY 1985 and six more in FY 1986. We propose to use four to six of the C-12's for marine detection. For the budgeted $5,000,000 four C-12's can be equipped with a 360 degree marine surveillance radar, such as the Litton 504 or the AIL APS-128, a mini-FLIR, and the necessary avionics. These aircraft would provide a dedicated airborne surveillance and detection capability for marine interdiction.

Additional Flight Hours for the P-3A's ($4,600,000).

The FY 86 budget request will enable Customs to utilize to a greater extent the four P-3A aircraft on loan from DOD by funding approximately 1,314 additional flight hours. This will increase the monthly flight hours of each P-3A by approximately 27 hours to a total of 91 flight hours per month per P-3A.

Operation and Maintenance of Two Additional Black Hawk Helicopters ($1,400,000).

Customs currently has 6 Black Hawk helicopters on loan from DOD. As part of the effort to form an air module at each existing air branch, two additional Black Hawks will be acquired, thereby providing each air branch with at least one Black Hawk. The FY 86 budget request includes funding for operating and maintaining these two additional Black Hawks.

Question. During an average week, how many hours is the Customs Air Patrol based at Homestead AFB, Florida, operational? Are there sufficient pilots and support personnel for round the clock operations? Are there shortages in any positions? How many suspect aircraft are detected during an average 30-day period? What percentage of these are estimated to be drug runners? What percentage are being intercepted? How many interceptions were made in FY 84? How many of these were successful?

Answer. During average week the Customs Air Branch at Homstead AFB, is operational 80 hours per week. Yes, it is physically possible to operate around the clock. However, since this would allow for only one aircraft per shift, it would have an extremely negative impact on our effectiveness. Our resource utilization and flexible scheduling provide maximum effectiveness for the resources available.

Presently there are shortages of five radar intercept specialists, four pilots, and one clerk. Based on analysis of a 12-month period 18 suspect aircraft were detected during an average 30-day period. Of these, 41 percent were considered potential smugglers.

During fiscal year 1984, 87 suspect aircraft were intercepted. Of these, 54 were determined to be legal flights during the intercept, identification, and sorting procedure. Of the reamining 33 intercepted aircraft 9 were seized for smuggling violations and 24 were stopped and searched with negative results.

Question. What is Customs enforcement plan to bar the importation of products made with slave labor in the Soviet Union and other Communist countries? What enforcement results have been achieved?

Answer. As you may be aware, on September 28, 1983, I recommended that a finding be published to the effect that certain classes of merchandise which are produced by convict, forced, or indentured labor in the Soviet Union are being imported into the United States, in violation of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

Pursuant to that recommendation, appropriate agencies of the Government, including the Central Intelligence Agency and the International Trade Commission, conducted a thorough review of the available information on this subject. As a result of this review, it has been determined that a nexus cannot be established between the available evidence on Soviet forced labor practices and specific products from the Soviet Union or other communist countries. This determination was communicated to me on January 28 of this year by the Secretary. Accordingly, Customs does not have at this time a basis upon which to prohibit the importation of any specific product which may have been produced in the Soviet Union with the use of forced labor.

THE DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, DC, January 17, 1985.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, DC.

DEAR DON: In the wake of the release of the ITC report on the use of forced labor in foreign countries to produce goods for export, I thought I should write you to update the status of our research on this issue. Despite continued monitoring, we are unable to obtain sufficient facts to make a solid case that any particular good we receive from the USSR is produced by convict, forced, or indentured labor.

You will recall that on 16 May I sent you a letter which stated that according to our most recent analysis 3 percent of total Soviet labor is forced. That analysis remains valid, but I can find nothing in the ITC report that indicates the availability of more specific data.

Yours,

WILLIAM J. CASEY.

THE SECRETARY OF THE TREASURY,
Washington, DC, January 28, 1985.

Memorandum for William Von Raab, Commissioner, U.S. Customs Service.
Thru: Assistant Secretary Walker.
Subject: Merchandise from the Soviet Union which may be produced by convict, forced, or indentured labor.

On September 28, 1983, you recommended to me that a finding be published pursuant to section 12.42, Customs Regulations, to the effect that certain classes of merchandise from the Soviet Union which are produced by convict, forced, or indentured labor, either are being, or are likely to be, imported into the United States in violation of section 307, Tariff Act of 1930 (19 U.S.C.). The categories of products covered by your original proposal were modified by your memorandum of December 2, 1983.

As you will recall, on May 16, 1984, I informed you that the evidence then available did not warrant a decision at that time to withhold any Soviet products from importation. My decision was based upon careful consideration of the available evidence and, in particular, the views of the Director of Central Intelligence on that information, which had been provided by the Central Intelligence Agency. In deferring a determination, I specifically chose to wait until the completion of the International Trade Commission's review of forced labor practices throughout the world.

The International Trade Commission issued its report on forced labor practices on December 18, 1984. After thorough examinaiton of the report, I have concluded that it provides no additional evidence which might support a decision to prohibit the importaton of any Soviet-produced goods into the United States. Indeed, the report further discredits the already meager evidence about two of the products indentified in your recommendation. Furthermore, the ITC has expressly cautioned that its report is not intended for use as evidence in any administrative proceeding.

I have also received another letter from the Director of Central Intellignece which updates the CIA's views as originally expressed in May, 1984. This latest letter, a copy of which is attached, confirms that the CIA has continued to monitor information on Soviet forced labor practices and that the CIA still is not able to make a "solid case" that any specific forced labor goods are imported into the United States.

In light of the report of the International Trade Commission and the current views of the Central Intelligence Agency, I find that the available evidence provides no reasonable basis in fact to establish a nexus between Soviet forced labor practices, and specific imports from the Soviet Union. Consequently, based upon the evidence currently available to me, I have decided that there presently is no basis upon which to prhohibit or withhold from importation into the United States any goods produced within the Soviet Union. Accordingly, your recommendation of September 28, 1983, is not adopted.

While this is a final decision with respect to your recommendation and the evidence currently available, it does not preclude the introduction at a later date of new evidence about the possible importation of Soviet products made by convict, forced, or indentured labor.

DONALD T. REGAN.

Question. Please compare the size of the U.S. Customs Service with that of other major countries in relation to workload, population, and length of border.

Answer. It is difficult to make valid comparisons between Customs Services. Three of the countries listed are islands. Canada has a northern coastline that requires only limited customs activity. Some countries, such as France, Germany and the United Kingdom, combine other functions, such as excise, with Customs. Others have more limited investigative and other enforcement functions than the U.S. Customs Service.

Country	Number Customs employees	Value imports (billion)	Population (million)	Area square miles
United States	13,400	362.2	229	3,618000
Australia	4,950	20.4	15	2,966,000
Canada	8,000	71.3	25	3,831,000
Federal Republic of Germany	33,000	153.5	62	96,000
France	22,000	100.1	54	211,000
Japan	8,000	124	119	146,000
United Kingdom	25,000	98	56	94,000

Question. Please provide information regarding U.S.-Canadian cooperation on transborder trade facilitation.

Answer. U.S. and Canadian Customs Services are cooperating on facilitating transborder trade through the development of an aligned shippers export declaration/commercial invoice. In addition, U.S. and Canadian Customs have initiated numerous joint enforcement efforts such as coordinated CET team activities that will expedite trade while protecting importers and exporters.

Question. Summarize the current Customs fraud investigations, both civil and criminal. How much revenue was recovered or produced from penalties? What investigative methods are being used by Customs investigators?

Answer. Fraud investigations involve the attempts to avoid paying tariff duties or other assessments, or restrictions on imported merchandise. The investigations pertain to:

Drawback—A program wherein an importer can make claim for duties paid when the merchandise is exported from the United States.

A nationwide criminal investigation concerning the filing of fraudulent drawback claims for the alleged exportation of processed sugar has revealed a loss of revenue estimated at $50 million and the diversion of 506 million pounds of sugar into the commerce of the United States. Indictments are expected to be returned against numerous companies and individuals in the first and second quarters of 1985.

Foreign Trade Zones—A variety of criminal fraud investigations reveal that various foreign trade zones are being used for the illegal diversion of bonded merchandise and the introduction of counterfeit and/or prohibited goods into the commerce of the United States. The investigations involve fragrances, wearing apparel, jewelry, coffee and consumer electronics. Methods of diversion range from illegal manipulations in the zones, switching merchandise in transit or at the point of exportation, "theft" of merchandise, to falsification of documents presented to U.S. Customs.

Textiles—Nationwide criminal and civil investigations pertaining to the illegal importation of textiles are currently underway. Because of quotas, differing rates of duty based on fiber content and trademark/copyright issues, importers transship merchandise so as to falsify the country of origin, misclassify or misdescribe merchandise so as to receive a more available visa/quota category or lower rate of duty, falsify fiber content so as to avoid import restraints and to receive a more favorable rate of duty, understate quantity or weights so as to circumvent quota/visa restrictions which have a quota reporting unit by pound or piece, and undervalue so as to minimize the payment of duty.

Counterfeit—The problem of the manufacturing and sale of counterfeit merchandise is a worldwide problem, with the United States being one of the principal countries for the receipt of counterfeit goods. Products ranging from wearing apparel, toys, computers, expensive perfumes, watches, to aircraft/automotive parts comprise some of the areas of investigative activity. Most field offices within the Customs Service have either criminal or civil investigations involving counterfeit merchandise.

Steel—Criminal and civil investigations pertaining to steel are nationwide and cover many different reasons for and methods of fraudulent activity. Cases reveal that evasion of the Trigger Price Mechanism, Antidumping and Countervailing Duty Orders, "Buy American" provisions of sales contracts, quotas and the European Steel Arrangement cause overvaluation, undeclared rebates, misdescription of the product, transshipment, remarking to show United States as the country of origin, altering of export certificates, and duplicating and reusing of export certificates.

Coffee—The fraudulent importation of unroasted coffee beans has resulted in the initiation of criminal and civil investigations at various locations in the United States and Puerto Rico. The United States, a member of the International Coffee Organization, honors the quotas established by the organization, thus causing the use of false certificates of origin by those exporters and importers wishing to circumvent quota. During 1983 and 1984, civil action has resulted in the collection of $9 million and the exportation of the illegally imported coffee.

As a result of civil investigative activity, penalties issued during fiscal year 1984, amounted to $586.8 million. Collection of mitigated penalties amounted to $29.1 million in 1984.

Beyond the techniques utilized in other criminal and civil investigations, the Customs Service has undertaken several additional approaches in fraud investigations. Special task forces have been implemented at certain locations for the purpose of targeting specific types of importations; intra-agency teams comprised of special agents, inspectors, import specialists and auditors have been implemented for the purpose of comprehensive investigations using the expertise of the various divisions within Customs; increased intra-agency coordination on various matters impacting on-going investigations and subsequent criminal and civil actions; and field utilization of the Commercial Fraud Investigations Center for gathering, sorting, comparing, analyzing and distributing information.

Question. Describe "Operation Tripwire" and any other special operations to combat commercial fraud such as quota evasion and brand name counterfeiting? How effective have these programs been?

Answer. Operation Tripwire is a coordinated Customs effort in combatting the evasion of duties, the circumvention of quotas and the violation of international marketing agreements, utilizing and integrating the field and Headquarters resources of the Offices of Enforcement, Commercial Operations and Inspection and Control. In addition to investigative activities by the Office of Investigations and District Fraud Teams, Operation Tripwire encompasses the continued case monitoring, intelligence analyses and targeting activities of the Customs Fraud Investigations Center at Headquarters.

Under this program, major task forces (e.g., Textile Task Forces in New York and Los Angeles; Steel Task Forces in Houston, Portland and Detroit) have been created and utilized to intensify enforcement activities in intercepting illegally imported merchandise and conducting related investigations.

Overall program strategy focuses on the successful detection and prosecution of criminal fraud violations, the deterrence of potential violators by the aggressive application of administrative penalty provisions of the law, and the publicizing of Customs efforts to the business community and to the general public. This is accomplished through the integrated efforts of the investigations components of the Office of Enforcement, the compliance, audit and analysis function of the Office of Commercial Operations and the inspectional activities of the Office of Inspection and Control, all supported by the strategic and tactical intelligence provided by the Office of Intelligence. These efforts are further enhanced by the Customs Fraud Investigations Center at Headquarters whose staff, including a recently acquired economist, through the use of electronic data processing techniques, case monitoring and the development of fraud profiles and trends, gathers, analyses and distributes information identifying potential violators and areas where investigations may produce greater revenues for the U.S. Treasury.

The fraud programs have been very effective as illustrated by the following statistics:

	Fiscal year—		
	1982	1983	1984
Arrests	15	8	119
Indictments	21	35	160
Convictions	22	28	117
Recoveries (millions)	$18.1	$30.1	$29.9
Seizures (millions)	$23	$49.1	$62.6

Question. Describe "Operation Tripwire" and any other special operations to combat commercial fraud such as quota evasion and brand-name counterfeiting with regard to currency reporting and other financial investigations.

Answer. Operation El Dorado and Operation Greenback are Customs initiated operations undertaken jointly with the IRS and DEA. Operation Greenback has been operational since 1980; El Dorado since 1982.

These joint Customs, IRS and DEA operations are separate and apart from those joint agency operations run under the aegis of the OCDETF.

Operation El Dorado and Operation Greenback investigations are generally of two types. One targets large scale narcotics traffickers who are attempting to launder millions of narcotic generated dollars. The other focuses on violators who attempt to avoid the reporting requirements of the Currency Transaction Report and the Currency Monetary Instrument Report. Customs has been most effective in both investigative categories as indicated in the following FY 85 statistics:

Other Customs Financial Task Forces—Fiscal Year 1985

Arrests	33
Indictments	28
Convictions	14
Currency seized (million)	$6.3
Property seized	$543,000
Narcotics seizures:	
Cocaine	1
Heroin	0
Marijuana	0

The most recent significant Operation El Dorado financial investigation resulted in the Bank of Boston being fined $500,000 for violations of the Bank Secrecy Act.

Question. What special enforcement is the Customs Service providing to investigate and detect counterfeit high-technology imports (i.e., computers and video games from the Far East)?

Answer. With the assistance of copyright holders Customs test facilities for electronics have been set up in our laboratories at Los Angeles, New York and Headquarters. The Apple Computer Company, and more recently IBM, have provided equipment and expertise in support of the detailed technical evaluations which are required to determine whether imported computers contain in "Read Only Memory" copyrighted programs which have been recorded with Customs.

Similarly, Midway, the manufacturer of the Pac-Man game, pioneered industry assistance in the field of video game copyright protection, and now over 40 different games representing at least 15 manufacturers are recorded with Customs.

Customs has examined over 1,000 electronics samples during the past 2 years; and 40 percent of these have been found to violate registered copyrights.

The companies involved have also, in conjunction with the CFIC, provided specific training and testing hardware to field personnel.

Copyright/trademark violation seizures for 1984 totaled some $22,131,952 in domestic value.

This figure may be broken-down as follows:

Textiles	5,817,596
Electronics	2,908,837
Watches	2,853,292
Toys	8,702,013
Miscellaneous	1,850,214

Question. Please provide information and data regarding Customs fraud investigations during FY 1984 in the steel and textile area.

Answer. *Steel*—During FY 84, there were steel task forces in operation in Detroit, Portland, Los Angeles, Houston, Newark and Mobile/New Orleans. The task force efforts in Detroit resulted in pleas to two counts of felony violations, $20,000 in criminal fines and $3.25 million in duties and penalties. The task force efforts in Portland resulted in an indictment of nine individuals and two companies. The criminal case was resolved with a plea agreement; guilty pleas were entered by the president of the foreign corporation, the foreign corporation and the U.S. subsidiary. Criminal fines in the amount of $205,000 were assessed. The civil case is continuing. The task forces in Houston and Mobile/New Orleans are utilizing Federal grand juries in the conduct of their respective cases.

Currently there are 52 special agents working on steel cases. There are 75 class I steel cases under investigation at this time.

SIGNIFICANT CASES CONCLUDED IN FISCAL YEAR 1984

Reisfeld & Company—New Orleans—The president of the company entered a nolo contendere plea to a charge of 18 USC 1001 in connection with the importation of merchandise subject to monitoring under the Trigger Price Mechanism (TPM).

Daewoo Industrial Company (Korea), Daewoo International (America), and nine employees were indicted by a Federal grand jury in Portland, Oregon, for false statements on entry documents for merchandise monitored under TPM. Daewoo Industrial Company (Korea), Daewoo International (America) and the president of the Korean firm pled guilty to a total of 22 counts and were fined the maximum of $215,000. An investigation into the civil liability continues.

Contractor Steel Company—Detroit—The case was referred by Congressman John D. Dingell. A Federal grand jury handed down indictments charging contractor with the removal of the country of origin marking on imported steel products. The company pled guilty and was fined $12,000.

Thyssen Steel Detroit—Detroit—The company pled guilty to two counts of 18 USC 1001 and fined $20,000. The company paid $3.25 million in duties and penalties in settlement of their civil liability.

SIGNIFICANT STEEL CASE ACTIVITY IN FISCAL YEAR 1985 THROUGH JANUARY 31, 1985

1589 metric tons of black plate manufactured in Greece were seized for false description to avoid the European Economic Community licensing requirements. The investigation continues.

Investigation in Cleveland disclosed a loss of revenue in excess of one half million dollars. A penalty in excess of $112 million has been issued in the case.

Industrial Minerals Corporation—Philadelphia—Industrial Minerals Corporation pled guilty to three counts of making false statements as to the country of origin on three entries of sintered magnesite. The Corporation was fined $15,000 in criminal penalties and paid an additional $120,000 in duties.

FAG Bearings—Stanford, CT—Cleveland—The company paid $4.1 million to the U.S. Customs Service in settlement of the case involving the misstatement of the quantity and quality of bearings imported in Toledo, Ohio, from the parent firm in Germany.

Textile—Fiscal year 1984 Textile and Apparel Seizures—271 seizures, $31,719,520 domestic value.

Currently there are 506 major Class I cases being tracked by the Customs Fraud Investigations Center (CFIC). Of these, textile and apparel fraud cases represent the largest single area or commodity subject to investigation with a total of 137 open and pending cases (26, 7%).

In response to the evidence of increased textile fraud there is an increased emphasis on textile fraud investigation throughout the field offices.

There will soon be additional senior special agents assigned to our offices in Panama City, London, Bangkok, Bonn and Karachi to work textile and apparel fraud investigations. The Textile Section of the CFIC provide textile fraud training to these special agents to assist them in investigating textile and apparel fraud cases.

Survey of the 240 textile and apparel seizures from 5/22/84-1/22/85:

		Percent
Misclassification	91	37.9
Counterfeit apparel	44	18.3
Understatement of Quantities	39	16.3
Undeclared Mdse	25	10.4
Transshipping	16	6.7
False labels	15	6.3
Undervaluation	9	3.8
Split shipments	1	.4

Breakdown of the 79 textile fraud cases opened after 5/1/84, and remain open or pending as 1/22/85:

		Percent
Transshipping	37	46.8
Misclassification	20	25.3
Undervaluation	15	19.0
Miscellaneous	3	3.8
Counterfeit apparel	2	2.5
Understatement of Quantities	1	1.3
Split shipment	1	1.3

Question. In FY 1984 what were the results of your multinational investigations?

Answer. The U.S. Customs Service does not track statistical information specifically for cases involving foreign offices or for "multinational" investigations. However, the nature of Customs investigations dictates that most of the Class I cases in priority program areas will involve participation by one or more of the foreign offices.

Although Customs foreign offices do not become actively involved in arrests, indictments or seizures overseas, they do provide a significant amount of assistance and information leading to seizures and other enforcement results by foreign officials. For example, U.S. Customs-generated information provided through the Customs Attache, Bonn, in FY 1984, led in the largest seizure of cocaine in Swedish history. In addition, foreign authorities made numerous seizures of strategic technology and equipment based on information provided by Customs foreign offices.

The majority of cases worked in foreign offices are collateral cases in support of domestic investigations. As noted, statistics for these cases are not tracked by foreign office involvement per se. However, statistics maintained by the Office of Investigations for FY 1984 indicated that domestic enforcement activity resulting from investigations initiated by the foreign offices were as follows: Arrest 52; Indictments 46; and Convictions 26.

As noted, these statistics resulted from only a small percentage of the foreign office investigations. In view of the fact that the foreign offices provide assistance in most Customs priority investigations, the following overall enforcement statistics for FY 1984 are presented as pertinent: Arrest 979; Indictments 990; and Convictions 617.

Question. Provide information on the development of a periodic merchandise entry and duty system.

Answer. Payment of estimated duties at time of entry or up to 30 days subsequent is authorized by statute (19 U.S.C. 1505); however, 19 U.S.C. 1484(a)(2)(B) requires the filing of the entry summary within 10 working days following the date of entry. Therefore, while payment of estimated duties may be deferred up to 30 days, the filing of an entry summary must be accomplished within 10 working days by statute.

Limited approval for acceptance of consolidated monthly entry summaries was granted to conduct a test in the Detroit Customs District. The company (Clark Equipment) had no existing classification or value problems. Also, certain strictures were placed on entries to be included in the consolidated entry. For example, no entry subject to antidumping or countervailing duty was included in the test, nor any entry in which the liquidation required a suspension or extension.

Upon evaluation of the test these factors emerged: (1) Although the Bureau of Census gave its approval concerning statistical reporting for the consolidated entry, it subsequently noted statistical reporting problems under this method of entry. (2) The cash flow benefits to the Customs Service were generally insignificant. Administrative costs to the Customs Service increased since Customs Automated Commercial System was not programmed to process a consolidated entry.

Question. What is the status of proposals to institute a "revolving" account for duty payment for major importers?

Answer. Projects and tests concerning the periodic payment of Customs duties or a "revolving" account for duty payment have been completed. The present Automated Commercial System and the Automated Broker Interface module permit a daily statement for each customhouse broker for accepted entry summaries filed each day. A single check can be presented to satisfy duty obligations incurred during each day.

Question. What is the status of proposed regulatory changes being considered by Customs and the Treasury regarding the elimination of sureties on Customs bonds? Are there any projected cost savings to the government as a result of changes in bonding procedures? Is a replacement system under consideration and would any new system afford the same revenue protection as under the present regulations?

Answer. The initiative regarding the elimination of sureties on Customs bonds was abandoned after Customs held public hearings concerning this matter on April 10, 1984.

At this time:

1. Collection action has been taken with a view toward improving Customs cashflow with regard to payments of demands on sureties.
2. The final regulation which will implement procedures whereby no bonds would be required for importations up to $2,500 in value is in the last stage of Customs review before being sent ot the Department.

Question. In a study completed in 1981, "Assurance Needed That Tariff Classifications Are Accurate", GAO found that verification of data on entries by C&V staff was haphazardly performed and either minimal or non-existent in many cases. Has there been any improvement in the situation since?

Answer. Classification of merchandise is essential to the determination of import duties and taxes; admissibility of foreign goods; uniformity of action Servicewide; and the compilation of import statistics so vital to the formulation of national trade policies.

In an effort to maintain pace with increasing import volume and workloads with the available resources requires extensive use of selectivity concepts to reduce the burden of handling over 6 million documents annually.

Effective and efficient selectivity criteria works best when concise and definitive processing instructions can be automated for immediate reference at the point of entry. To this end, we are actively engaged in bringing on line a nationwide computer network which will give us the capability of using national and local criteria to identify commodities and importers which for a variety of reasons require intensive review by import specialists. Other importations which have ben adjudged low risk by the responsible national or local import specialists will be routinely bypassed without any significant expenditure of import specialist time.

An interim manual system is currently bypassing over 60 percent of all formal import entries. While this system is not as efficient as the automated bypass module under development, it does relieve the pressure on import specialists allowing them to concentrate to a greater extent on the verification of entry date. Visits to importers premises, pre-acceptance reviews and post-entry audits, together with the activities of import specialist fraud teams and participation in and other enforcement inaitatives have combined to increase the verification of trade program and high risk entries by import specialists. We can assert categorically that great progress has been made in verifying entry data since the GAO audit.

Question. The Committee has received persistent reports of insufficient inspectors at land border ports to properly staff secondary inspection lanes, leading either to long lines at rush hours or inadequate safeguards against smuggling and illegal entry. What is the Service's assessment of this situation in light of current traffic projections, and what can be done about it?

Answer. Customs has been developing innovative methods of inspection, particularly at our land borders, in order to fulfill our responsibility both to process traffic with minimal delays and to interdict narcotics. We are accomplishing this despite the fact that both vehicular and pedestrian traffic at our land borders continue to increase, as does the smuggling of many kinds of narcotics and other illegal drugs, particularly cocaine. Although we face static or reduced manpower at many of our land border ports, our innovative inspection methods have prevented, in general, inordinate traffic delays, and our enforcement results have increased.

For example, the Border Processing Improvement Plan (BPIP) has been developed, field tested and found to be effective in reducing dalays at our major land border ports while increasing our seizures of narcotics and other contraband. BPIP takes advantage of threat assessments, new drug-trafficker and vehicular profiles, observational and questioning techniques using behavorial analysis, and the use of "rover" inspectors.

Other ways in which we are overcoming our manpower limitations include the selctive utilization of our resources where the smuggling threat is greatest (by forming, for example, special Contraband Enforcement Teams at Southern Border ports), and by incresed use of anti-smuggling information (for example, by more sophisticated utilization ot the treasury Enforcement Communications System.]

Question. How many inspectional staff-years are allocated to performance of Department of Agriculture functions for FY 83–86? What reimbursement will Customs receive from DOA for this effort?

Answer. During FY 82 the DOA made a decision to reduce funding in support of inspector positions from the level of $4,786,000 and 241 positions in FY 82 to $2,925,000 and 133 positions in FY 83. According to the DOA this reduction was a result of our redirection of resources from the previous interagency agreement that called for 100 percent examination of handbaggage to a more selective and therefore less labor intensive examination process. The numbers in answer to the questions are:

	Positions	Amount
Fiscal year		
1983	133	$2,925,000
1984	119	[1]2,592,600
1985	116	2,592,660
1986	112	2,592,660

During FY 84 a new Reimbursement Agreement was concluded between the APHIS and USCS. We believe it has rightly discarded the unworkable concept of 100 percent mandatory handbaggage examinations at airports and substituted selectivity, improved training, and cooperative enforcement. We also believe that this agreement represents a realistic approach in meeting our obligations to APHIS by using inspection methods consistent with our enforcement philosophy. It is emphasized that this agreement pertains strictly to Customs airport operations and international mail facilities.

Question. What is the status of implementation of ACCEPT?

Answer. With the exception of the Canadian border ports, Los Angeles International Airport and the New York Region, all ports processing more than 80 entries per day are either operational on the ACCEPT system or in the process of implementation with full operational status expected during this FY.

Question. How many ports are automated and how many are on manual?

Answer. Thirty ports are currently processing on the automated system and 35 ports are processing on the manual system.

Question. At the automated ports, what has been the experience with computer down-time?

Answer. Scheduled computer down-time for end-of-day processing and start-of-day is approximately 2 hours per day, Monday through Friday (7:00–7:30 A.M. ET and 9:30–11:00 P.M. ET). The system is available the remaining time and all day Saturday and Sunday. A survey of all ACCEPT locations last July determined the major cause of system down-time to be communication line problems, most of which have been corrected with additional upgrades still being worked on.

Question. Please define low-risk and high-risk shipments, and how they are distinguished in practice.

Answer. High-risk shipments are those identified as being likely to involve violation or errors. Low-risk shipments are those considered to involve no identified risks which can be resolved by examination of the merchandise. In practice, high-risk shipments are identified by the presence of a criteria line, low-risk by no criteria and a general exam designation.

Question. Under automated ACCEPT, who actually makes the decision as to what shipments to inspect, and how far removed is that person or persons from the port of entry?

Answer. At the local level, parties of legitimate interest in the development of ACCEPT criteria submit their requirements to the port coordination for their area of interest. This includes the addition, modification, or deletion from the local file, and if appropriate, recommending similar action for the national criteria file. The port coordinator ensures criteria is properly formatted, resolves conflicts in criteria priorities, eliminates overlapping of criteria, and establishes/modifies the local criteria file by inputting the furnished data. Criteria considered appropriate for inclusion in/modification of/deletion from the national file are forwarded by the coordinator for headquarters review and possible input to the national file.

Question. Please answer the same for manual ACCEPT.

Answer. The same procedures apply for ports on manual ACCEPT. The actual input may be at another location depending on whether the local port has an automated capability.

Question. Is there any provision in ACCEPT for override of a decision not to inspect, based on the judgement of inspector on the spot?

Answer. The override of a general exam (no inspection required) decision of the system by an inspector is permitted and is viewed as a positive override of the system.

Question. Please provide before-ACCEPT and after-ACCEPT data for (1) percentage of shipments released by an inspector on the spot, and (2) percentage of shipments released by computer or supervisor designation, without inspection.

Answer. Prior to ACCEPT, inspectors were required, by law, to examine not less than one package of every 10 packages of merchandise unless a special regulation permits a lesser number of packages to be examined. District Directors were authorized to examine less than one package of every 10 packages, but not less than one package of every invoice when the contents and value of packages were uniform, or the contents of the packages were identical although differing as to quantity and value per package.

In reality, the number of shipments actually examined varied from port to port depending on the volume of entries, type of merchandise, size of shipment, method of packing, and staffing, among other considerations. The quality of the examination performed was also suspect inasmuch as many examinations were nothing more than "tail-gate" exams.

Question. Under ACCEPT, if an Import Specialist wishes a shipment to be examined, does he contact an inspector or the computer?

Answer. Examination of a class of shipments, i.e., all shipments of a specific commodity for a certain importer, would be most easily identified by addition of a criteria line in the ACCEPT system. Examination of a specific shipment would be most easily identified by directly contacting the inspector.

Question. Do import specialist have direct input to ACCEPT regarding inspection of specific shipments, or is their input chiefly provisio of selection criteria for the computer?

Answer. Import specialists have direct input to ACCEPT regarding the inspection of specific shipments by providing criteria to identify those shipments which require examination.

Question. Who deginates targets for contraband enforcement teams? How many such teams are in operation and at what location? How many average positions, by type, are allocated to the teams for FY 84-86? How many containerized shipments were inspected by the teams in FY 1984? What were the enforcement results of those inspections? How many other shipments (invoices) were inspected by the teams in FY 1984 and what were the enforcement results? What were the total cargo enforcement results in FY 1984?

Answer. Teams designate targets based upon information supplied by Operational Analysis Staffs, Headquarters, Region and District Intelligence Units, Documents Analysis Units, other law enforcement agencies, the inspection force at large, enforcement automated data bases or through their own review, research, and analysis.

There are 52 teams, at least one in nearly all Customs districts.

In FY 1984 Contraband Enforcement Teams included 4 branch chiefs, 35 supervisors, 221 senior and journeyman inspectors, 95 canine enforcement officers, and 7 support personnel. In FY 1985 and 1986, there are 7 branch chiefs, 48 supervisors, 445 senior and journeyman inspectors, 105 canine enforcement officers and 18 support personnel.

We do not capture separate cargo release statistics for containerized shipments versus other shipping modes. In FY 1984 inspectors performed 100% examinations on more than 2.8% of the 3,278,367 cargo containers presented.

Seizure statistics are not separately captured for persons versus cargo. In FY 1984, seizures showed:

		Total I & C
Heroin (lbs.)	143	477
Cocaine (lbs.)	9,383	11,026

		Total I & C
Hashish (lbs.)	3,020	42,190
Marijuana (lbs.)	115,997	203,858
Doses other drugs	4,108,059	5,838,014
Arrests	642	18,537
Vehicles	373	8,920
Aircraft	56	71
Vessels	9	45
Weapons	3,775	17,968
Rounds ammunition	68,124	74,247
Monetary instruments	$7,036,017	$38,260,751
General merchandise	$88,687,676	$190,686,174

Question. What funds or personnel, if any, are expected to be transferred to Customs from other agencies? For what programs will these funds or personnel be used?

Answer. No funds or personnel are expected to be transferred to Customs from other agencies, and, conversely, no funds or personnel are expected to be transferred from Customs to other agencies in FY 1986.

Question. Please provide a detailed summary of investigations initiated in FY 1984 and FY 1985 under the EXODUS program. How many detentions and for what duration? How many indictments: Convictions? What is the breakdown of the kind of violations under the Export Administration Act (incorrect licenses, attempts to transport critical technology without a license, transshipment, etc.)?

Answer. During FY 84, Customs initiated 663 EXODUS investigations that were accepted for prosecution, made 258 arrests, and achieved 354 indictments and 136 convictions. In addition, Customs made 1,459 seizures of merchandise valued at $85.6 million.

For the first 4 months of FY 85, Customs has made 238 detentions of merchandise resulting in 203 seizures valued at $17 million. During this period, the average detention was less than 9 days, and the seizure-to-detention ratio was 85 percent.

Our efforts to control technology exports have disclosed an increasing number of cases involving criminal violations. Earlier in the EXODUS program, many shipments of critical technology were inadvertent due to ignorance of the export laws and regulations. Today, however, exporters are well aware of the laws, but we are seeing more instances of criminal intent in the U.S. at the beginning of a conspiracy to export critical technology. With increased experience in dealing with EXODUS violators, Customs is directing its efforts not only at destroying the criminal conspiracies involved, but in preventing the loss of the technology or munitions from occurring in the first place.

For all of these reasons, Customs is emphasizing the need for both foreign interdiction and investigative efforts in cooperating with the U.S., and independent foreign action.

Question. How much money was actually spent on the EXODUS program in FY 1984? How much in FY 1984 on other programs designed to enforce and monitor export controls? How much has been spent so far in FY 1985 on EXODUS and on other export control programs? Ramparts?

Answer. In FY 1984, Customs spent $23.3 million for direct support of EXODUS staffing, equipment, and operations. Although the Customs accounting system does not monitor the time devoted to EXODUS type inspections activities of staff assigned to other enforcement programs, a special audit survey determined that the equivalent of about 400 average positions actually supported the EXODUS Program. In FY 1985, Customs has committed $14.0 million to the EXODUS Program. At this time, we do not anticipate spending any funds in FY 1985 on the RAMPART project.

Question. Describe the specific instances where the Commissioner waived an individual's overtime cap of $25,000. How much overtime was paid in FY 84 and thus far in FY 85? How much total overtime in excess of the $25,000 cap was paid in FY 84 and thus far in FY 85?

Answer. Because the Customs Service has established stringent controls on overtime earnings and implemented operational procedures to better monitor the assignment of personnel to overtime, there have been no instances where an individual's overtime cap was waived and, thus, no overtime monies paid in excess of $25,000.

In FY 84 a total of $78.8 million was paid in overtime, of which $63.9 million was for inspectional overtime. Thus far in FY 85 $28 million has been paid for overtime of which $21.6 million was for inspectional overtime.

Question. Describe the types of overtime paid and amount in each category.

Answer. U.S. Customs Service overtime for FY 1984 is detailed below.

[In thousands of dollars]

Type/category	*Amount*
Reimbursable: 1911	42,040
Nonreimbursable:	
1911	693
Act of 1944	10,784
P.L. 94-353 (sec. 15)—Aircraft	7,674
Act of 1945 (FEPA)	4,635
AUO	11,542
Fair Labor Standard (FLSA)	1,451
Subtotal	36,779
Grand total	78,819

Question. In cases where overtime is paid in blocks, are employees required to work the entire blocked period? How is such overtime supervised?

Answer. Overtime (1911 and 1944) is paid in increments of 2-hour periods although the employee may not be required to work the entire period. If the employee works beyond the initial 2-hour increment he/she must work at least one full hour of the next 2-hour period to receive overtime pay for the second period.

For work performed on Sundays and holidays overtime (1911/1944) is paid in a minimum increment of four 2-hour periods. An employee working under this type of overtime may not be required to work the entire eight hours however, the employee is obligated to work eight hours, if work is available. Eighty percent of the employees working this type of overtime work a full eight hours.

This overtime must be approved in advance by the supervisor. After the work has been performed and recorded on the employees' time card, the supervisor must certify and approve the time card. In addition, policy dictates that field, regional and Headquarters' managers must monitor all overtime.

Question. What is the status of the regulations on rules-of-origin for textile products? When are they expected to be final? What is Customs doing to ensure efficient (fewest delays) and uniform implementation of these new regulations at U.S. ports of entry?

Answer. The interim textile origin rules were published on August 3, 1984, in the Federal Register, and became effective September 7, 1984. The interim regulations were redrafted into final form after a review of the more than 650 comments which were received. The final textile rules are currently in the review process. They are expected to be published in the Federal Register by March 1, 1985, assuming we receive the appropriate advice from the Committee for Implementation of Textile Agreement (CITA), as required by the Presidential Executive Order, and there are no other unforeseen delays.

Customs is answering questions on the interim regulations on an expedited basis as those questions arise and is issuing appropriate operational instructions to our field offices. Customs has clarified and explained its interpretation of the origin rules through the use of operations guidelines to its field offices and Question and Answer sheets whch were disseminated to both field offices and the general public. In addition, the rules of origin were thoroughly explained to field personnel at a national textile seminar for Customs import specialists and laboratory personnel and will be a topic for discussion at the two similar planned seminars in June and September, 1985.

Question. How are shipments inspected under the EXODUS program? What criteria are used in selecting shipments for detention or further investigation? How many investigations were initiated under EXODUS as a result of "tips" or information provided by other enforcement agencies?

Answer. Customs Inspectors stationed at high threat ports of egress throughout the country—such as New York, Los Angeles, Boston, and San Francisco—specially trained for EXODUS duties examine exports on the basis of documentation, inconsistencies, nature of the shipment, destination, intelligence leads, etc. Shipping containers are only opened on a highly selective basis. Based on an initial inspection, the Customs Inspector then attempts to either develop additional evidence or resolve any suspicious or inconsistencies on the spot by directly contacting the manufacturer, shipper or exporter.

If the Inspector is still suspicious, he will then contact the EXODUS Command Center in Washington, DC—which is manned around the clock 7 days a week—and request them to review past files, previous violations, and other information data bases they maintain. A decision to detain the merchandise will then be made by the Command Center following this background review, and the matter will be referred to the appropriate licensing agency. The Customs Inspector is, of course, immediately notified of this decision. Subsequently, a decision may be made to formally seize the merchandise and/or initiate an investigation.

This new procedure, initiated in July 1984, was intended to solve several problems: reduce the number of unnecessary detentions, increase the quality of the detentions actually made, and reduce delays to legitimate shippers. During the first 4 months of FY 85, the average detention time has been less than 9 days, and the seizure-to-detention ratio has been 85 percent, indicating that the great majority of detentions have been for sound reasons.

Turning to the question on "tips", the majority of EXODUS investigations initiated as a result of "tips" are based on leads furnished by cooperating industries. The GEMINI program, launched in 1983, has been a highly successful aid to EXODUS in enlisting grassroots support for the program and generating investigative leads. Under GEMINI, Customs investigators contact local manufacturers and exporters and brief them on the program. The FBI and the Department of Defense have been among the most supportive of Federal agencies in providing us with "tips". Several joint FBI/Customs investigations are currently underway as a result of such "tips", and several major jointly conducted cases were successfully concluded in 1984.

Question. What is the role of the Customs Service foreign offices in the Exodus program or other export controls? How many persons are assigned abroad and in what capacity?

Answer. The role of the Customs foreign offices in the Exodus program is specifically addressed in responses to the questions concerning Operation Exodus. In brief, the offices provide support to all domestic investigations by conducting inquiries, interviews, intelligence and evidence gathering activities overseas; initiating investigations based on original information provided by foreign sources of information; and providing a conduit/contact point for provision of information and requests for assistance to and from the involved foreign law enforcement authorities.

U.S. Customs currently has ten foreign offices located in London, Paris, Bonn, Rome, Seoul, Hong Kong, Tokyo, Ottawa, Mexico City and Panama City. These offices are staffed by 56 persons, including 33 Criminal Investigator positions; 10 U.S. support staff; and 13 Foreign Service National personnel.

Question. What kinds of "critical" technology are being sought by Eastern bloc countries? What are the destinations of illegal shipments? What are the sources of this technology, i.e., give examples of manufacturing companies and products?

Answer. Surprisingly, the types of critical technology being sought by the Soviet bloc do *not* necessarily involve the latest state-of-the-art technology, nor are they of the level of sophistication normally associated with American manufacturers of high quality consumer electronics. Recent seizures have included: Computer disc drives in Chicago; A micro-densitometer in Germany; Side-looking sonar in Japan; Lasers in Denver; and PDP office computers in Minneapolis.

The point here is that the Soviet acquisition net appears to be quite broad—it is not limited to just exotic technical equipment, but embraces a large number of items that collectively affect our national security.

Our experience to date overwhelmingly indicates that the illegal shipments make their way to the Soviet bloc via diversion through a third country—shipped first to a friendly NATO or other allied country and then covertly diverted to the Soviets through another country.

In an effort to narrow its interdiction and investigative efforts, Customs has embarked on a major effort to identify the specific types of technologies and sensitive equipment most desired by the Soviets. The Aerospace Corporation and the BDM Corporation have been awarded contracts to *sift* through the technology universe and identify likely Soviet acquisition targets. During FY 84, the Aerospace effort focused on space technology and developed "target lists" consisting of component descriptions, Manufacturers, identification markings, etc. of items such as infra-red sensors, navigation and guidance controls, low energy lasers, fiber optics, and embedded computers. The BDM contract produced written manuals providing photographs and descriptive data on the semi-conductor manufacturing industry and the super-minicomputer industries. Both the Aerospace and BDM descriptive products have been distributed to Customs Inspectors and Special Agents to help them in selecting shipments for examination and in initiating investigations.

Question. There is a restructuring underway of the Office of Internal Audit of the Office of the Internal Affairs. Describe these planned changes.

Answer. We have split our Internal Audit Operations Division, which was responsible for most of the audits we do at our Washington Headquarters, into two new divisions: one that will concentrate on the audit of Customs operational activities, and the other on financial activites. We made this move towards specializaiton to improve the quality and timeliness of our work products, and to improve supervision over the two areas. In addition, we are shifting resources to our EDP audit division to meet the increasing demand to deal with automation and to improve our own use of automation as an audit tool.

Question. Two of three National Audits for 1984 (these are the highest priority audits) are not complete. Describe these audits and their status, and explain why the two have not been completed.

Answer. The two aduits in question are the National Audit of Appropriations Under CAMIS (Customs accounting and Management Information System) and the National Audit of the Currency and Foreign Transactions Reporting Act.

The Draft Report of the National Audit of Appropriations Under CAMIS was issued on January 31, 1985. A response by the Office of the Comptroller to the recommendations made in this report is due on February 28, 1985. The response will be incorporated into the draft audit report and a final audit report will be issued by approximately March 30, 1985.

The National Audit of the Currency and Foreign Transactions Reporting Act was begun during the last quarter of fiscal year 1984. The draft report is being prepared and is scheduled to be issued during March 1985.

Question. The one national audit for 1984 that was completed was the audit of Contract Administration. What changes in Customs contracts procedure resulted from this audit?

Answer. This audit disclosed that contracting procedures and practices employed by Customs procurement officials for formally advertised and negotiated contracts were generally satisfactory. The pre-award contracting process was functioning effectively in accordance with the Federal Procurement Regulations. However, the audit disclosed that enhancements were needed for the post-award administration process in the accounting procedures and records maintained for contract financial data; procedures for the receipt and retention of deliverable end products; and the procedures for invoice processing to prevent duplicate payments.

The Office of the Comptroller agreed with the recommendations for improvement of the deficient areas indicated above and has taken action to implement procedural changes.

Question. In 1985, the Office of Internal Audit has identified three national priority audits: 1) The in-bond program to see its impact on counterfeit goods; 2) The utilization of equipment under the EDP system; 3) Overtime payments (1911, which cost the Customs Service $56 million in Fiscal Year 1983.) Give a status report on these audits and the time for completion.

Answer. The in-bond audit has just begun during February 1985. It is scheduled for completion during May 1985. We would like to take this opportunity to clarify one point in regard to the purpose of the in-bond audit. The purpose of the audit is not to assess the impact of the in-bond program on counterfeit goods, but rather to determine whether the in-bond system provides adequate control over merchandise being shipped in-bond.

The audit of EDP equipment is scheduled to begin during april 1985. A specific target date for completion has not been established.

The overtime audit is scheduled to begin during July 1985. A specific target date for completion has not been established.

Question. One of the 1985 directed audits is the follow-up of prior year audit recommendations. What is the status of this audit, and has there been a problem is monitoring the implementation of audit recommendations in the past?

Answer. The Follow-up Audit of Prior Year Audit Recommendations is not scheduled to begin until July 1985. This audit is a general requirement of OMB Circular A-50 (Audit Follow-up) and OMB Circular A-73 (Audit of Federal Operations and Programs). Also, following up on audit recommendations is recognized as a standard auditing technique. Therefore, the fact that follow-up audits are performed is not an indication that there are problems in monitoring the implementation of audit recommendations.

Question. Could you explain to the subcommittee the role that the Treasury Inspector General plays in the internal audit procedures of the Customs Service? Who is responsible for seeing that the audit recommendations are enforced?

Answer. The Treasury Inspector General exercises functional authority over Customs internal audit and directs Treasury wide audit projects in which customs may participate.

While I am ultimately responsible for seeing that audit recommendations are enforced, I hold my senior managers responsible for the ensuring that recommendations are enforced.

Question. What is the current status of a Customs internal study to change the current status of the Office of Regulations and Rulings? What prompted this study?

Answer. An internal study group was formed by the Assistant Commissioner for Commercial Operations to help define the role of various headquarters and field offices in both the rulings process and the penalty mitigation process. The composition of the group included district directors, a regional counsel, Office of Regulations and Rulings supervisory attorneys, and a representative of the Assistant Commissioner's staff office. The recommendations of this group have just been forwarded to the Assistant Commissioner for review, and if he concurs, they will then go forward to the Commissioner. The study was prompted by a desire on the part of the Assistant Commissioner to improve the coordination between the Office of Regulations and Rulings and the field offices on rulings and penalty mitigation issues. None of the recommendations concerns a change in the organization of the Office of Regulations and Rulings.

Question. What is the status of Customs' implementation of the Columbia-Snake District provided for in the Trade and Tariff Act of 1984.

Answer. The establishment of Customs' Columbia-Snake District was announced as Final Rule TD 85-22 [50FR4973] in the February 5, 1985, issue of the Federal Register. The District is comprised of territories formerly in the Customs' Portland, Oregon District. Also, it consists of the southern counties of the State of Washington which were formerly part of the Customs' Seattle District, and the State of Idaho below the 47° latitude, formerly part of the Great Falls District. The effective date of this change is February 5, 1985.

Question. Have the seizure and forfeiture provision in section 213 of the Trade and Tariff Act been implemented? What internal controls have been established to monitor the flow of proceeds into and out of the Customs Forfeiture Fund?

Answer. The administrative forfeiture provisions of section 213 were implemented immediately and savings have already been realized in reduced storage costs. As anticipated, many narcotics related conveyance forfeitures are uncontested allowing rapid administrative forfeitures. Regulations have been drafted and soon will be published to permit summary forfeiture of "junkers."

Instructions have been issued to field offices explaining the Customs Forfeiture Fund (CFF) and the technicalities of its operations. An account has already been set up to receive proceeds, and all proceeds since October have been earmarked for the CFF. Unfortunately, there is no appropriation permitting expenditures from the CFF, thus no funds have been spent from the CFF. We expect that all expenditures from the Fund will be controlled centrally.

Question. Has the Customs Service attempted to work with the Air Transport Association of America to develop a computerized air cargo system which is uniform throughout the U.S.? What is the status of these discussions and the merits of such an approach.

Answer. Customs has been working with the Air Transport Association (ATA) for nearly a year to develop a standardized air cargo computer system. Standards have been agreed upon. Developing the system with ATA and the airlines will assure increased participation and greater benefits for both Customs and the carriers.

Question. Please provide a list of suggested legislative changes which would help streamline and moderize Customs' operations.

Answer. 1. Amend 19 U.S.C. 1491 to reduce the period that Customs is required to store abandoned merchandise before selling it.

2. Permitting the sale of seized and forfeited counterfeit trademarked articles in less than the one year permitted by present law.

3. Permitting the Secretary of the Treasury to change the entry and clearance requirements to make them more flexible and efficient.

4. Revise 19 U.S.C. 1592 to permit civil forfeiture of prohibited or restricted merchandise, independently of the related false-invoicing case, if any.

5. Amend 19 U.S.C. 68 to permit increased expenditure of funds by the Secretary of the Treasury and the Attorney General for the construction or alteration of border facilities.

6. (a) Authorize the Secretary of the Treasury to provide Customs services on a fully reimbursable basis to municipalities and airports which do not otherwise qualify for port of entry status (i.e., delete the "4" in section 236(c) of P.L. 98-573).

(b) With regard to P.L. 98-573, Title II, Subtitle C, Section 236: delete paragraph (e) requiring an appropriation to make funds available from the user fee accounts for small airports. These are totally reimbursable services requested in advance by the user. The appropriations accounting should be be same as for other Customs reimbursable services.

7. Amend 19 U.S.C. 1484 to permit importers to file entry summary information and estimated duties at a centralized location.

8. Permitting civil penalties in drawback cases.

9. Revise 19 USC 1321 to permit Secretary of the Treasury not to collect or refund small amounts of duty where cost of collection or refund would exceed amount collected or refunded.

Question. Once again your budget request calls for a reduction of nearly 900 Customs employees, including 206 inspectors and 244 import specialists. Do you really believe that increased automation can make up for this loss of personnel in effectively enforcing our Customs laws?

Answer. Although our FY 1986 budget requests shows a decrease in inspector and import specialist positions we believe the proposed management efficiencies and enhanced automated processing systems also included will improve and increase our enforcement efforts. More than half of the inspector positions being reduced will actually be converted to reimbursable positions as underutilized ports are converted to reimbursable funding. Our direct number of positions will be decreased, however, our reimbursable number will be increased. Improved inspectional methods and expanded utilization of automated systems will continue to decrease labor intensive processes while improving overall effectiveness. Out enforcement efforts will continue to improve as we concentrate resources and introduce special enforcement teams to priority areas.

The reduction of import specialist positions is consistent with our centralization initiative. As we streamline Customs import requirements and expand our automated processing systems we will reduce duplicative operations and redundant data entries. Import specialists will spend less time on routine entry review and more time on fraud enforcement efforts.

Question. In the last several years, this Committee's authorization legislation not only would have restored your proposed cuts in personnel, but would have added 650 positions to be allocated to inspectors, import specialists, and patrol officers. If such a measure were to become law, do you feel that the addition of these positions would substantially strengthen the Customs Service's enforcement capabilities and result in increased revenues?

Answer. While we appreciate the Committee's concern for the Customs Service, we do not require additional positions in FY 1986 for strengthening our enforcement efforts or for increasing our revenue collections. Our request in FY 1986 for $16.0 million for new initiatives for the Customs Air Program "operations and maintenance" account is only an increase required for improving the effectiveness of our border interdiction efforts. With regard to increased revenues, collections in FY 1984 were up 28 percent and we are projecting significant growth for FY 1986. There is no data to support the conclusion that the staffing included in the 650 positions for the revenue processing will materially change this FY 1986

Question. Approximately what percentage of total customs employees now working in regional offices will remain after the proposed regional consolidation (interpreted to mean administrative centralization)?

Answer. Approximately 38 percent of Customs employees now working in regional offices will remain after the implementation of administrative centralization. Those employees remaining are involved in operational program management. All administrative positions would be centralized to a single location.

SUMMARY OF REGIONAL HEADQUARTERS FTE ADJUSTMENTS

Region	Current regional FTE allocation	Administrative centralization FTE reduction	Fiscal year 1986	
			Regional consolidation adjustment	Proposed FTE allocation
Northeast	140	(91)	(49)	0
New York	251	(160)	+ 12	103

SUMMARY OF REGIONAL HEADQUARTERS FTE ADJUSTMENTS—Continued

Region	Current regional FTE allocation	Administrative centralization FTE reduction	Fiscal year 1986	
			Regional consolidation adjustment	Proposed FTE allocation
North Central	97	(83)		14
Southeast	159	(101)	+ 11	69
South Central	97	(53)	(44)	0
Southwest	148	(89)		59
Pacific	161	(112)		49
Total	1,053	[1] (689)	(70)	294

[1] Budget. Note that the FY 1986 budget figures used the regional FTE figures after centralization. These figures do not include administrative residual staffs which will be allocated to the regions later this year. Our estimate is currently + 36 (nationwide) for these regional residual staffs.

Current Regional headquarters total	1,053
Less: administrative centralization FTE reductions	689
Total	364
Administrative residual staffs for regions	36
Proposed regional headquarters FTE total before regional consolidation	400

Question. Would there be any need to continue to maintain regional offices after this consolidation is implemented? What functions will remain?

Answer. Yes, regions will be required to provide overall management direction to customs 27 districts and the ports for operational programs in enforcement, intelligence, classification and value, inspection and control, regulatory audit, and entry liquidation. Regional offices will also maintain a regional communications center.

Question. Is the Customs Service contemplating closing any regions during FY 1986? If Customs had complete discretion (without political intervention), which regions would it close and why? Which regions are Customs considering closing?

Answer. Customs is proposing to reduce the number of regions and this reduction is reflected in our FY 1986 budget. The regions under consideration for realignment are New Orleans, Boston, and Chicago. Implementation of this proposal is under review and no decision has been made on which region will be eliminated.

Question. In your proposed budget for FY 1986, you show $4.1 million in savings derived from operating ports on a reimbursale basis. Which ports are proposed to be operated on a reimbursable basis and under what authority will this be established?

Answer. Under a reimbursable port concept, those locations not meeting Customs established minimal workload criteria of either 2,500 formal entries, 350 cargo vessel arrivals, 150,000 vehicle arrivals or 2,000 scheduled international aircraft arrivals per year, would convert to operating on a reimbursable basis. Congressional action, however, would be necessary in order for Customs to operate under this concept and to collect the cost of providing service. At the present time, there are 121 seaports, 40 interior ports, 61 northern border ports, and 5 southern border ports which are potential reimbursable ports. Attached is a list of these locations for your information.

POTENTIAL REIMBURSABLE PORTS

Seaport

1. BATH, ME
2. BAR HARBOR, ME
3. ROCKLAND, ME
4. JONESPORT, ME
5. PORTSMOUTH, ME
6. BELFAST, ME
7. SEARSPORT, ME
8. GLOUCESTER, MA
9. NEW BEDFORD, MA
10. PLYMOUTH, MA
11. FALL RIVER, MA
12. SALEM, MA
13. PROVINCETOWN, MA
14. NEWPORT, RI
15. MELLVILLE, KY
16. NEW HAVEN, CT
17. NEW LONDON, CT
18. CAPE VINCENT, NY
19. CHESTER, PA
20. PAULSBORO, NJ
21. CAMDEN, NJ
22. GLOUCESTER, CITY, NJ
23. MARCUS HOOK, NJ
24. ANNAPOLIS, MD
25. CAMBRIDGE, MD
26. CRISFIELD, MD
27. ASHLAND, WI
28. SUPERIOR, WI
29. SILVER BAY, WI
30. MARINETTE, WI
31. GREEN BAY, WI
32. MANITOWOC, WI
33. SHEBOYGAN, WI
34. SAGINAW-BAY CITY FLINT, MI
35. ESCANABA, MI
36. MARQUETTE, MI
37. ALGONAC, MI
38. MUSKEGON, MI
39. GRAND HAVEN, MI
40. ROGERS CITY, MI
41. DETOUR, MI
42. MACKINAC ISLAND, MI
43. PRESQUE ISLE, MI
44. ALPENA, MI
45. FERRYSBURG, MI
46. EAST CHICAOG, IL
47. GARY, IN
48. ERIE, PA
49. SANDUSKY, OH
50. FAIRPORT, OH
51. HURON, OH
52. LORAIN, OH
53. CAPE CHARLES, VA
54. REEDVILLE, VA
55. HOPEWELL, VA
56. BEAUFORT-MOREHEAD CITY, SC
57. GEORGETOWN, SC
58. BRUNSWICK, GA
59. FERNANDINA BEACH, FL
60. GREEN CLOVE SPRINGS, FL
61. BOCA GRANDE, FL
62. PORT CANAVERAL, FL
63. PANAMA CITY, FL
64. PENSACOLA, FL
65. KEY WEST, FL
66. FORT PIERCE, FL
67. ALEXANDRIA, VA
68. PORT ST. JOE, FL
69. GULFPORT, MS
70. PASCAGOULA, MS
71. APALACHICOLA, FL
72. CARRABELLE, FL
73. MORGAN CITY, LA
74. PORT SULPHUR, LA
75. DESTREHAN, LA
76. GREENVILLE, MS
77. AVON, MS
78. ST. ROSE, LA
79. GOOD HOPE, LA
80. VICKSBURG, MS
81. LAKE CHARLES, LA
82. TEXAS CITY, TX
83. FREEPORT, TX
84. PORT LAVACA, TX
85. PORT SAN LUIS, CA
86. EL SEGUNDO, CA
87. VENTURA, CA
88. PORT HUENEME, CA
89. CAPITAN, CA
90. MORRO, CA
91. EUREKA, CA
92. MONTEREY, CA
93. ALAMEDA, CA
94. CROCKETT, CA
95. MARTINEZ, CA
96. SELBY, CA
97. SAN JOAQUIN RIVER, CA
98. SAN PABLO BAY, CA
99. CARQUINEZ STRAIT, CA
100. SUISUN BAY, CA
101. NEWPORT, OR
102. COOS BAY, OR
103. KALAMA, WA
104. ABERDEEN-HOQUIAM, WA
105. FERRY, WA.
106. KENMORE AIR HARBOR, WA
107. NEAH BAY, WA
108. JUNEAU, AK
109. KETCHIKAN, AK
110. SKAGWAY, AK
111. WRANGLE, AK
112. DALTON CACHE, AK
113. VALDEZ, AK
114. PETERSBURG, AK
115. SITKA, AK
116. PELICAN, AK
117. SAND POINT, AK
118. KODIAK, AK
119. HILO, HI
120. KAHULUI, HI
121. NAWILIWILI-ALLEN, HI

INTERIOR

1. ST. ALBANS, VT
2. BURLINGTON, VT
3. SPRINGFIELD, MA
4. WORCHESTER, MA
5. LAWRENCE, MA
6. UTICA, NY
7. WILKES-BARRE, PA
8. HARRISBURG, PA
9. GREAT FALLS, MT
10. BUTTE, MT
11. RACINE, WI
12. PEORIA, IL
13. EVANSVILLE, TN
14. LAWRENSBURG, IN
15. OWENBORO, KY
16. ST. JOSEPH, MO
17. SPRINGFIELD, MO
18. CHARLESTON, WV
19. DURHAM, NC
20. REIDSVILLE, NC
21. COLUMBIA, SC
22. BIRMINGHAM, AL
23. HUNTSVILLE, AL
24. LITTLE ROCK, AK
25. CHATTANOOGA, TN
26. KNOXVILLE, TN
27. AMARILLO, TX
28. LUBBOCK, TX
29. AUSTIN, TX
30. LAS VEGAS, NV
31. FRESNO, CA
32. STOCKTON, CA
33. SACRAMENTO, CA
34. REDWOOD CITY, CA
35. RENO, NV
36. SPOKANE WA
37. FAIRBANKS, AL
38. LAS CRUCES, NM
39. FT. MYERS, FL
40. BOISE, ID

NORTHERN BORDER

1. LIMESTONE,ME
2. BRIDGEWATER,ME
3. MILLTOWN,ME (station under Calais)
4. FOREST CITY, ME (station under Houlton)
5. MONTICELLO,ME (station under Houlton)
6. ORIENT, ME (station under Houlton)
7. EASTON,ME (station under Ft.Fairfield)
8. HAMLIN, ME (station under Van Buren)
9. ESCOURT, ME (station under Ft. Kent)
10. COBURN GORE,ME (station under Jackman)
11. ST.AURELIE,ME (station under Jackman)
12. DAAQUAM,ME (station under Jackman)
13. ST.PAMPHILE,ME (station under Jackman)
14. CAANAN,VT (station under Beecher Falls)
15. PITTSBURGH, NH (station under Beecher Falls)
16. BEEBE PLAIN,VT (station under Derby Line)
17. E. RICHFORD,VT (station under Richford)
18. PINNACLE RD.,VT (station under Richford)
19. W.BERKSHIRE,VT (station under Richford)
20. ALBURG,VT (area port with Highgate Springs)
21. ALBURG SPRINGS,VT (station Highgate Springs/Alburg)
22. MORSES LINE,VT (station under Highgate Springs/ Alburg)
23. CANNONS CORNERS,NY (station under Champlain)
24. MOOERS,NY (station under Champlain)
25. CHATEAUGAY,NY (area port Trout River)
26. CHURUBUSCO,NY (station under area port Trout River)
27. JAMIESONS LINE,NY (station under area port Trout River)
28. Turner, MT
29. Porthill,ID
30. SCOBEY,MT
31. WILDHORSE,MT (station under Sweetgrass)
32. WHITETAIL,MT
33. OPHEIM,MT
34. PIEGAN,MT
35. CHIEF MTN.,MT (station under Piegan)
36. MORGAN,MT
37. WHITLASH,MT
38. TRAILCREEK,MT (station under Roosville)
39. ST. JOHN,ND
40. HANSBORO,ND
41. SARLES,ND
42. MAIDA,ND
43. HANNAH,ND
44. WALHALLA,ND
45. ROUSEAU,ND
46. BAUDETTE,MN
47. CARBURY,ND
48. FORTUNA,ND
49. AMBROSE,ND
50. NOONAN,ND
51. SHERWOOD,ND
52. ANTLER,ND
53. WESTHOPE,ND
54. ALGONAC,MI (station under Port Huron)
55. ROBERTS LANDING,MI (station under Port Huron)
56. CRANE LANE, MN (station under Duluth)
57. WILLOW CREEK,MT
58. NIGHTHAWK, WA
59. DANVILLE,WA
60. BOUNDARY,WA
61. METALINE FALLS,WA

SOUTHERN BORDERS

1. SASABE,AZ
2. LOS EBANOS FERRY,TX
3. AMISTAD DAM,TX
4. FALCON DAM,TX
5. MORLEY GATE,AZ

Question. What other changes in district and port office operations are contemplated in FY 1986?

Answer. In FY 1986 we are planning to redesignate 27 Customs districts into full processing, enforcement and appraisement locations. Each district will be staffed by a full complement of inspectors, import specialists and other enforcement agents. Entries will continue to be filed as previously, but the actual processing will be at the appropriate district office.

Other than the proposed conversion of underutilized port operations to a cost reimbursable basis, no further changes in district and port office operations are planned in FY 1986.

Question. On page 23 of your full statement, you indicate that Customs laboratories are supporting the fraud program by increased sampling analyses, yet you are proposing to reduce the number of Customs labs from 6 to 2. Why?

Answer. A final decision on closing Customs laboratories will not be made until an internal staff study is completed to determine the best structure for full utilization of the Customs laboratories. Over the past several years, Customs has studied the number of laboratories and determined that consolidation of facilities may be operationally justifiable, providing advantages in economies of scale, better career ladders for employees, and more efficient service to its "customers." In addition, fewer laboratories would produce long-term budget savings, especially in space rental costs since laboratory space is billed at premium rates. Based on preliminary studies by the Treasury Department, the location of a laboratory facility is irrelevant to meeting its mission. Timeliness factors for sample turn-around can be controlled by good management follow-up and status reports if unavoidable delays occur. Significant savings will occur as a result of returning to GSA the space now occupied by the laboratories to be closed.

Support to the Fraud Program in the area of analysis of textile and steel samples, for example, can probably be maintained after consolidation by eliminating or reducing some C&V samples that are lower risk in terms of revenue impact. In addition, laboratory automation and the use of sophisticated technology such as Mobile Metal Analyzers will help sustain current levels of effort.

Question. Please provide a detailed breakdown of the proposed $13.7 million in savings projected in your budget for organizational consolidation and realignment.

Answer. Detail on savings derived from organizational consolidation and realignment in FY 1986 is as follows:

[Dollars in thousands]

	Savings	
	FTE	Amount
Consolidation:		
Regions	70	$2,554
Labs	50	2,490
Redesignation/Realignment:		
Districts	120	4,711
Appraisement	110	3,983
Total	350	13,738

Question. Do you feel that Customs is doing an effective job in protecting American industry from fraudulent and counterfeit importations? What more can be done?

Answer. Yes, we are doing an effective job when we receive the full cooperation of the industries involved. Examples of this are the computer, apparel, and toy industries. Last year, Customs seized over $3.5 million worth of computers, almost $6 million worth of clothing, and over $9 million worth of toys for copyright and trademark violations. Altogether, over $25 million worth of counterfeit goods were seized in calendar year 1984.

There are, however, some very important areas, such as automotive parts, where we have not had the success we would like. In part this may be attributed to the nature of the products involved. For example, counterfeit auto parts can be legally imported under generic labels and markings and then illegally remarked and relabeled later. Such fraudulent procedures can only be detected and stopped through the lengthy investigative work of special agents who are already spred thin in drug enforcement and other fraud detection efforts. However, part of the problem is also a lack of cooperation from certain industries, many of whose members do not even register their trademarks with Customs. We are currently taking steps to increase our liaison with all concerned industries in our battle against counterfeit products.

Question. The Subcommittee is hearing more and more talk about a Customs proposal to impose user fees. What is the curent status of this proposal?

Answer. Customs is studying potential legislation authorizing the Secretary of the Treasury to prescribe and collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the United States in an amount sufficient to reimburse Customs for all costs. The costs would be paid by the recipient of the service. The proposed legislation would authorize fees on processing of entries, conveyances, private yachts and aircraft, and persons crossing the border in vehicles, trains, aircraft and vessels.

To determine the charges, the Customs Service has analyzed its operations and derived fees to be charged to cover the costs of services provided, except for enforcement costs. Customs has prepared a legislative package which will be reviewed by the Treasury Department and OMB.

Question. In the Continuing Resolution passed by the Congress last year, the Customs Service was prohibited from adopting new regulations on duty-free stores until the Congress set forth statutory criteria for those regulations. What plan does the Customs Service have to develop suggested legislation for consideration by the Congress? Will the Customs Service consult with affected parties as part of the process of developing a legislative proposal?

Answer. The continuing resolution not only prohibits Customs from adopting new regulations concerning duty-free stores; it also prohibits us from proposing them. Pending further guidance from the Congress, Customs will provice technical assistance in the drafting of suggested legislation if it is desired. We are agreeable to consulting with affected parties concerning draft legislation, and in fact have been in contact with some affected parties.

Question. Revenues from the operation of duty-free stores at airports around the country increasingly provide a substantial portion of the operating funds of those airports. Section 211 of the Trade and Tariff Act of 1984 is intended to protect those revenues by prohibiting unauthorized duty-free stores from operating at airports. How does the Customs Service work with airport authorities to encourage and facilitate the continued development of this source of funds for airports? How can the relationshiip between the Customs Service, airport authorities, and duty-free store operators be improved?

Answer. Customs will protect the revenue of airport authorities through enforcing Section 211. We have already instructed our field offices to require duty-free stores, as a condition of being allowed to operate, to show that airport authorities have approved their operations. We believe that the relationship among Customs, airport authorities, and duty-free store operators could be improved most by legislation which sets forth their respective rights and responsibilities. Customs primary responsibility in duty-free stores is protecting U.S. revenues and enforcing U.S. import laws and regulations. This limits Customs direct participation or role in encouraging or developing sources of funding for airports through duty-free stores. Our position is therefore generally neutral.

Question. Singapore permits so-called "arrival" duty-free shops which sell goods to persons arriving in Singapore free of duty. Under our laws, duty-free goods may be sold only to persons departing from this country. Does the Customs Service have a position on arrival shops?

Answer. Customs primary responsibility is to protect U.S. revenue and enforce U.S. import laws and regulations. If it is believed that arrival shops are economically beneficial to the country, Customs would be concerned with how (1) we could minimize the need for additional Customs staffing, and (2) we could facilitate the flow of arriving passengers and still properly control the duty-free shop so as to prevent illegal diversions. Control considerations would seem to require the shop to be placed "upstream" in the flow of arriving passengers, so the passengers could purchase the goods before their baggage examination; however, this could significantly slow down final clearance of the flight. Also, legislation would be needed to determine whether the arrival shop goods would be treated as covered by the passenger's personal exemption, or whether they would be duty-free without respect to the exemption. Since we are not familiar with Singapore's law, control measures, or actual experience, a study of their arrival shops would be helpful if a more detailed position by Customs is required.

Question. In July of 1983, the Customs Service published its intent to consolidate drawback liquidation units.

Exactly what is the status of this project?

When, if ever, does the Customs Service intend to have its plan ready?

Will you provide the subcommittee a general summary of the comments received during the comment period including an accounting of the number of the positive comments and the number of negative comments

Answer. A proposed rulemaking is presently being drafted to reduce the number of locations from nine to one where liquidation of manufacturing drawback claims would take place. Drawback entries would continue to be filed at any location convenient to the claimant. Implementation of the project would be 1 year from date of final rule publication in the Federal Register. Same condition drawback and rejected merchandise drawback would continue to be processed in Customs districts.

Customs received 299 responses to the Advance Notice published in July of 1983. All respondents were negative to a change in the locations where drawback claims are processed. The responses will be addressed, in detail, at the time the Proposed Rule is published.

The amount of drawback refunded increased by approximately 40 percent ($308.1 million) over the last fiscal year. It has become more evident that consolidation of Customs drawback resources will help fulfill Customs obligations to process the ever increasing number of drawback claims being filed in a timely and accurate fashion. Under consolidation Customs will have enhanced productivity, uniformity of processing claims, reliable statistics, pooling of expertise, and increased enforcement capability to avoid negligence and fraud.

Question. Does Customs have any plans under consideration at this time to close or consolidate any inland ports, northern land border ports, southern land border ports, or regional headquarters. Does Customs have plans to increase or reduce personnel positions along our immediate border with Mexico?

Answer. Customs is considering a more efficient organization for its regions, districts and ports. Prior to making final decisions regarding consolidation of regional headquarters, Customs is presently reviewing regional functions and configuration. Under current plans, Customs is not planning to close any ports; however, we intend to convert low workload and productivity ports to a reimbursable basis. Local communities and businesses, benefitting from the services provided by these Customs ports, will be requested to reimburse the Government for the costs of the services. Therefore, there are no changes planned in inspectional or enforcement positions.

Question. Customs notified the committee on December 21st about the proposed consolidations of administrative functions. I don't think 90 days is long enough for the Congress to react to these kinds of announcements. Perhaps we need 180 days or 270 days, or at least let's not count recess days in the 90-day period. Would Customs be amenable to an extended reporting period?

Answer. Implementation of Customs reorganization and consolidation plans would be significantly complicated if the time period of 90 days for notification to the Congress prior to initiating any major field reorganization or consolidation were extended to 180 to 270 days. Reorganizations or consolidations are generally, in the short term, disruptive to the internal operations of an agency. The longer the time between notification to the Congress and actual initiation of the action, the greater the disruption. Moreover, the implementation phase usually must be completed within a fiscal year to minimize any adverse financial drain on the agency's programs. We believe that the 90-day notification period balances the interests of the Congress to be informed of, consider and react to reorganization and consolidation plans, and Customs interest in implementing those plans in a manner that is the least disruptive to the fiscal and operational responsibilities of the Service.

Question. What would be the cost to the Government of holding off on the consolidations until 1986 instead of going forward in 1985? I kind of suspect it would be lower. Do I understand correctly that you project a cost of $8.5 million in FY 1985 from centralization of administrative functions? How much could we save by waiting another year?

Answer. Customs is not planning to implement any consolidations in FY 1985, only centralization of administration functions. We are currently projecting a cost of $8.1 million in FY 1985 for implementation of centralization of administrative functions. The sooner we start implementing centralization the sooner it will start to generate savings. Therefore, by putting it off for another year we lose, not save, money. In addition, our FY 1986 Budget request depends on savings generated by the FY 1985 centralization effort. If those savings are not generated, Customs will have to reduce other areas of operations.

Question. Will any of Customs' port offices have to be closed to meet FY 1986 requested funding levels? If so, which ones? Name them.

Answer. Customs is not planning to close any port to meet FY 1986 requested funding levels. We do intend to convert the funding of low workload and low productivity ports to a cost reimbursable basis. Local communities and businesses, benefitting from the services provided by these Customs ports, will be requested to reimburse the Government for the cost of the services.

Question. Word has been received from Members of Congress representing border states that businesses are suffering as a result of the increased inspections at the border between the United States and Mexico. Is any relief in sight?

Answer. The increased border inspections were ordered by Customs on Friday evening, February 15, in response to a request from the Administrator of the Drug Enforcement Administration for support to DEA's investigation to locate Special Agent Camarena.

Mr. Mullen felt that the border inspections would be a great help to them in their efforts to track down any information which might speed the recovery of Special Agent Enrique Salazar Camerena who was kidnapped in Guadalajara on February 7.

Customs immediately issued orders to every Customs station on the Mexican border to search all vehicles and persons entering the United States for any information they may have, or evidence they may be transporting, which might relate to the kidnapping of Agent Camarena. Special attention was to be paid to any person arriving from the Guadalajara area.

The searches were adjusted on Saturday morning because of the inordinate delays they were causing; however, stringent inspection procedures were continued for the next several days. These stringent inspections were reduced on February 24 and 25, and traffic is now proceeding normally.

Question. How is the Memorandum of Understanding (MOU) between Customs and Commerce working out with respect to export enforcement?

Answer. The Treasury (Customs)/Commerce Memorandum of Understanding (MOU) on Foreign enforcement of the Export Administration Act (EAA) abroad is being implemented by both agencies with positive results. The MOU has enhanced the sharing of enforcement (specific, case related) information between the two agencies. Unfortunately, Commerce's list of case identifiers is not yet computerized and they have been unable to provide complete subject identities which include complete addresses and as Customs has provided to Commerce for all of our open cases. In identifying open cases, Customs has listed all of its Arms Export Control Act (AECA) cases as well as those involving potential EAA violations in the hope of avoiding future confusion. Many AECA investigations also involve EAA violations and vice versa.

The enhanced sharing of case information has improved the coordination of investigations here in the United States. Abroad, Commerce has stationed investigators in both Austria and Sweden and as allowed under schedule A of the MOU. The Commerce investigators have overzealously claimed pre-dominance in EAA enforcement in these countries and this has caused confusion among our enforcement contacts.

Question. What are the goals for the International Affairs Office at Customs and how do they relate to export enforcement?

Answer. The goals of the Office of International Affairs are both trade and enforcement related:

A. To expedite the free flow of international commerce by working with international organizations and other customs services to diminish procedural barriers, harmonize processing systems and increase information exchange.

B. To aid in increasing the level of Customs related enforcement efforts by promoting greater cooperation and assistance with foreign enforcement organizations in the areas of narcotics interdiction, Customs fraud, export of critical technology, exchange of intelligence and anti-terrorism activities.

Thus, the Office of International Affairs provides the forums (conferences, bilateral and multilateral agreements, customs-to-customs assistance programs, memberships in international organizations) for promoting cooperation and information exchange relating to export enforcement. The direct responsibility for the export enforcement programs lies within the Offices of Enforcement and Inspection and Control:

Question. Commercial fraud detection is taking more time and effort on the part of Customs officials. What is being done to facilitate release of legal shipments?

Answer. In October of 1984, a priority referral program was established with the Office of Senior Customs Representative, Hong Kong, for the expeditious investigation of shipments under question. Many seizures are released to the importer upon presentation of a visa waiver for the appropriate quota or quantity. The importer is required to post a bond for the goods prior to their release and pending any investigation that might be conducted.

A suspect shippers list and profiles for commodities with higher potential for violation have been prepared and distributed to the field. These aid in the identification of products with higher potential for fraud, thus expediting the release of nonsuspect goods.

Customs has developed an automated system (ACCEPT) as a tool to assist Customs in selectively examining cargo. ACCEPT stores information about imports which we know or suspect to be of high risk, prohibited or restricted in nature. The effect of ACCEPT is to intensively examine roughly 20-25% of the cargo that has been identified as high risk by parties-in-interest (import specialists, inspectors, investigators) including random selections and first time importer examinations. The remainder, 75-80%, are not subject to a physical examination, but many of these are identified by the system for documentary review, such as checks for other agency and admissibility requirements. It is anticipated that this system will rearrange not detract from manpower resources, in order to spend more time performing exhaustive examinations on fewer importations to ensure compliance and protection of the revenue.

Question. Re the country of origin interim regulations—many of our trading partners feel we have violated the MFA by initiating them. Why couldn't we have waited to bring up potential problems relating to quota violations during the MFA negotiations starting later this year? Why the rush, when the assembly operations covered had been considered Customs practice for a number of years?

Answer. Customs issued the country of origin interim regulations in compliance with Executive Order 12475 which directed the Secretary of Treasury to promulgate regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956 within 120 days of the May 11, 1984, effective date of the Executive Order. The President signed the Executive Order in response to the recent problems that the Customs Service was facing with regard to circumvention of the textile import program, and because of a U.S. Court of International Trade decision, *Cardinal Glove Co., Inc.* v. *United States*, 4 C.I.T. 41 which held that, absent specific regulatory authority to the contrary, the bilateral textile agreement at issue in that case was applicable only to textile products in which the agreement country was the "country of exportation." The Executive Order was also issued in order to prevent circumvention or frustration of the various multilateral and bilateral textile agreements to which the U.S. is a party and to facilitate the efficient and equitable administration of the U.S. Textile Import Program.

Question. Why should the insular possessions be caught in the middle of the COO interim regulations? They not only will have new quotas, but they will have to pay duty for the first time. The people of these islands are considered to be U.S. citizens. Why are they not treated as such?

Answer. General Headnote 2 of the Tariff Schedules defines the Customs Territory of the United States as including only the States, the District of Columbia, and Puerto Rico. General Headnote 3(a) grants certain preferential tariff treatment to insular possessions of the United States. By the wording of the headnote, to achieve preferential treatment, merchandise must be both the growth or product of the insular possession and satisfy a specified percentage of its value from that insular possession. Section 12.130, Customs Regulations, does not in any way change the requirements of Headnote 3(a). It is concerned only with defining whether, for the purposes of Headnote 3(a), merchandise is the growth or product of an insular possession for textile restraint purposes. The regulation provides a rule of origin which allows Customs to determine in which foreign country, territory, or insular possession imported merchandise actually originated. The regulations must cover *all* foreign countries or territories, or insular possessions outside U.S. Customs territory. To exempt insular possessions from coverage under the regulations would grant them a preferential status not authorized by law. Thus, the regulations apply to textile or textile products that are imported from insular possessions even if these products had been previously exempt for quota and duty purposes. However, in accordance with Customs views that there should be a single origin rule for all countries and all purposes, Customs intends to apply the principles of section 12.130 to all merchandise for duty and marking purposes as well as for restraint purposes. Since doing that may result in an increase in the rate of duty assessed in certain areas (most notably, the assembly of garment parts in the U.S. insular possessions of Guam and the Northern Marianas), Customs believes it must go through a formal change of practice pursuant to section 177.10(c), Customs Regulations. Pending such, Customs will not require adherence to the origin principles in section 12.130 for duty and marking where those principles would cause a raise in the rate of duty or conflict with previous marking rulings.

Question. Customs has put us on notice that the COO regulations could be extended to other than textile goods. What would be the likely targets in other areas? What kind of notice would be given should the regulations be extended?

Answer. The rules of origin contained in the interm textile regulations are derived from Customs interpertation of court decisions. Those decisions involved the origin of various kinds of merchandise (*i.e.* shoe uppers). Therefore, while the interim textile regulations are applicable on their face only to textiles and texile products subject to Section 204, Agricultural Act of 1956, as amended, the genral origin principles contained in those regulations are applicable to all merchandise. However, in view of the specific nature of the textile regulations, it is Customs view that the application of the origin principles contained in those regulations to nontextile merchandise will not result in any major changes in the country of origin of that merchandise. On the contrary, Customs believes that it has been applying those principles to all mechandise except textiles. If, in the future, it is determined that the application of past court decisions requires a cange in a pratice of determining country of origin, then Customs would be required by statute and regulation to publish a notice in the Federal Register giving interested parties an opportunity to comment on any proposed change.

Question. In bond shipments will not be subject to more examination at first port of entry. Some imports will need documentation that may be difficult to provide at the first port. Who decides what needs this additional documentation and on what items. What efforts will be taken to ensure that delays will be avoided?

Answer. In bond shipments may be subject to examination at the first port of entry under current laws and regulations. Customs is concerned with the instances of smuggling and fraud involving in bond shipments and we have established Forward In Bond (FIB) Teams in the District offices in order to selectively examine high risk shipments traveling in bond. Under our In-Bond Enforcement program, we normally only require the information available on the existing documentation such as the air waybill or bill of lading. The District Director may require additional documentation such as an invoice if he has good reason to suspect a violation of the law concerning a particular in bond shipment. This additional documentation is rarely requested and usually only of high risk items such as textiles, trademark, or copyright material. We are relying on our selectivity and profile techniques and the good judgement of our District Directors to ensure that the vast majority of in bond shipments are not delayed.

Question. A report by your Business Liaison issued in October 1984, contained a number of suggestions recommended by the importing community. Can you comment on each suggestion included in the executive summary portion of the report with respect to necessity, feasibility and possible progress to rectify the problem in each case?

Answer. To keep the record straight, the suggestions recommended in the report were partially from the importing community and also represent conclusions drawn by the writer of the report through his interaction with the various segments of Customs that responded to industry comments, sometimes with further industry input. We have not yet completed our internal process of review and discussion of the report by principal managers. Therefore, our comments at ths time should be viewed as tentative, but subject to revision based on the advice we may yet receive from technical managers.

The report is the result of a survey conducted by its writer addressed to the major organizations interacting with Customs. The questionnaire was of such a nature that it elicited attitudinal responses rather than objective and measurable data such as: how many complaints has your organization filed with Customs? And, how many have been resolved favorably and unfavorably to your position? Hence the recommendations do not address operational questions but instead, offer ways for the Customs Service to improve its regulatory image. We believe Customs has a good public image, but we will continue to work at improving it.

All the recommendations are feasible and we have made most propress on those that have a tie-in with operational improvements. We will continue to develop ways to improve lead-time for public notices, encourage better liaison and reaction at the regional and district levels with brokers and importers, and we will try to resolve problems at the local level. Our reorganization and centralization plans will help in this respect by concentrating local customs authority. We have initiated the new bond system which we expect will improve Customs performance and alleviate many of the concerns of the surety firms.

The writer of the report recommended a separate business liaison staff. However, we prefer to keep business liaison an integral part of each senior manager's duties. We also disagree with the writer's conclusion that reduced staffing has resulted in delays in processing work. Our record shows that we have steadily increased productivity with nearly stable staffing levels.

Question. What resources are included in the FY 1985 and FY 1986 budget to train Customs personnel and the importing community in preparation for implementing the Harmonized System.

Answer. In FY 1985 we have included $24,000 for training in preparation for implementation of the Harmonized System. These funds will be used for the initial development and preparation of the training program and required materials. Our FY 1986 training needs will be at least the same amount as FY 1985.

Question. What is the policy of U.S. Customs in transferring inspectors between regions to help balance the inspection workload on a nationwide basis and insure an adequate level of U.S. Customs facilitation at growing ports?

Answer. U.S. Customs continually monitors workload in order to ensure proper allocation of resources. However, workload is only one factor considered in resource allocation; of equal concern are results, service to the traveling and importing public, geographics of the port of entry, threat assessments, and processing methodologies.

In addition, recent budgets have not provided additional funding to allow for an increase in staffing to meet increasing workloads. Thus, Customs has developed new procedures, such as ACCEPT, Model Seaport, Red-Green, etc., to enable the same number of inspectors to process the additional workloads.

Question. What is U.S. Customs' plan regarding organizational structure? We understand a proposal is under consideration to transfer the Seattle District from the Los Angeles region to the Chicago region. We also understand there is consideration to merge the Los Angeles region with the Houston region. Can you inform us of the rationale, scope and timing for any organizational changes?

Answer. In FY 1985, Customs will centralize its administrative functions, including accounting, payroll, management analysis, etc., in Indianapolis, Indiana and Washington, D.C. These functions will be withdrawn from the Regional offices and Headquarters and centralized in a single location.

In FY 1986, Customs is proposing to redesignate its current configuration into 27 fully operational districts, each of which will include the full range of enforcement, processing, and inspection functions as well as the appraisement centers. Entries will still be submitted at the ports but the review will be conducted at the 27 appraisement centers. In addition, Customs is proposing to review its current regional structure, possibly operate laboratories at two locations, and convert many low productivity northern and southern border ports, interior ports, and seaports to a reimbursable basis.

Customs did consider transferring the Seattle district from its Pacific Region to the North Central Region. The transfer would have placed the entire western portion of our northern border under a single management, which would have assured uniform policy and procedures for processing and enforcement. However, at this time, the proposal is no longer active and and no action is contemplated.

There are no current plans to merge the Southwest (Houston) Region into the Pacific (Los Angeles) Region. However, it is possible that these Regions may be re-configured if Congress approves a reduction in the number of regions.

Under the Trade and Tariff Act of 1984, Customs is required to inform the Congress 90 days before any organizational changes are implemented. As of now, the Customs Service has informed the Congress of its intention to centralize its administrative functions in Indianapolis, Indiana and at its Headquarters in Washington, D.C. The rationale, scope, and timing of this proposal has been supplied to the Congress and will also be provided for any other organizational changes.

Question. Considering the difficulty being faced in many ports to get efficient and prompt clearance and inspection of cargo and the information we have heard that nationwide for every dollar spent on U.S. Customs manpower there is $20 earned in U.S. Customs duty, then why isn't it a prudent decision to provide sufficient inspectors which will not only clear cargo more efficiently and promptly but also earn additional revenue for the U.S. Treasury?

Answer. It is important to recognize that the majority of importers pose little risk of non-compliance with Customs and other federal agency requirements. Further, commercial cargo importations are covered by surety bonds to protect the revenue and ensure compliance with federal regulations.

Accordingly, the Customs Service has adopted a policy of selective processing which allows the vast majority of importations to enter the commerce of the United

States with minimal action by Customs. Through a statistical sampling procedure, we are able to ensure the proper payment of duties and the timely release of cargo with a smaller workforce.

Question. It is the requirement for water carriers and terminal operators to pay for overtime of U.S. Customs inspectors at their facility. We understand the U.S. budget process does not allow this money to be credited to the U.S. Customs budget so it can directly impact on the level of funding for U.S. Customs inspectors. Do you have any thought on this process considering that many water carriers and terminal operators are willing to pay for this necessary overtime because of the shortage of inspectors and if the money were funneled directly to U.S. Customs it might provide revenue to hire additional inspectors?

Answer. The reimbursement of inspectional overtime costs paid by water carriers and terminal operators is credited to the Customs Service. For FY 1986 Customs is proposing to establish user fees to be funneled directly to Customs to provide revenue to hire additional personnel.

Were it possible to hire additional employees some overtime might be eliminated. There would, however, continue to be overtime costs as it is impractical to schedule an 8-hour tour of duty if insufficient work exists for the entire time period. The Customs Service stringently monitors overtime costs and believes, with the implementation of more efficient operational procedures, that these costs are appropriate and in keeping with the concept of user fees.

Question. Recently U.S. Customs instituted a new policy for inspection of imports destined to inland U.S. destinations to be conducted at the port of discharge rather than at the destination. This new policy created cosiderable negative comment and was amended as a result of the comments from the water carriers, shippers, ports and others involved with imports. Do you have any thoughts on how the proposed policy could have been discussed with the shipping industry before abruptly publishing the new regulation and having to change them?

Answer. Customs was required to develop and publish the procedures for implementating the new country of origin rules for textiles within a very short time span. The procedures which were initially issued would have given Customs the maximum amount of control over the merchandise in question. Customs was well aware that the international trade community would have many concerns and ideas on this matter so the implementation date was set far enough in the future to allow time for public comments. Based upon lengthy discussions with all concerned parties, agreement was reached on a policy for the examination of high risk cargo traveling in bond which satisfied the requirements of Customs and the legitimate concerns of the trade community. The new procedures have been implemented, are working smoothly, and Customs has heard few complaints from the trade community.

Chairman **GIBBONS**. Our next witnesses will be the Honorable Paula Stern from the International Trade Commission, and any of her fellow Commissioners who happen to be here, Mr. Eckes, Mr Lodwick, Mr. Rohr, and I think we have Mr. Arnold with us too.

Madam Chairman, you may proceed as you wish. We realize your budget is not subjected to the management and budget process since you are an arm of the Congress, and you may proceed as you wish.

STATEMENT OF HON. PAULA STERN, CHAIRWOMAN, U.S. INTERNATIONAL TRADE COMMISSION, ACCOMPANIED BY COMMISSIONERS ALFRED E. ECKES, SEELEY G. LODWICK, AND DAVID B. ROHR; AND RICHARD D. ARNOLD, DIRECTOR, OFFICE OF FINANCE AND BUDGET

Ms. **STERN**. Thank you very much, Mr. Chairman, and members of the subcommittee. I can see I am lucky enough to have a dialog solely with you right now.

I thank you for the opportunity to present the Commission's budget request for fiscal year 1986. Accompanying me today are Commissioners Eckes, Lodwick, Rohr, and Richard Arnold, our Director of Finance and Budget.

Our Commission has long benefited from its close relationship with your subcommittee, and the most recent example is your sharing with us the professional skills of David Rohr, formerly one of your top staff and now an esteemed colleague. I must say I prefer having Dave at my side today rather than at your shoulders helping you formulate some tough questions on our budget request.

Chairman **Gibbons**. Wherever he is, he is going to be doing a good job.

Ms. **Stern**. He certainly is.

You have my full statement so I will offer only a few highlights.

Our fiscal year 1986 budget request was developed in an atmosphere of mounting pressure due to continued tensions in international trade. As Commission work closely parallels the activity in the international arena, so pressure on the Commission's resources has continued to build. The clamor generated by the U.S. trade picture certainly reverberate beyond the halls of Congress, to echo in the more modest halls of the Commission. Although recent statistics indicate that 1984 was a record year for economic growth in the United States, the $123.3 billion trade deficit was also unprecedented—the third consecutive record breaking year. Mr. Chairman, the ITC has become a MASH unit for the industrial victims of these massive trade flows.

When my colleague, Commissioner Eckes, addressed you last year as chairman of this Commission, he reported that the ITC was under siege. I must report to you today that the siege has further intensified. In fiscal year 1984, we instituted 203 cases, an increase of 26 percent. Now, looking at the first quarter figures for fiscal year 1985, we see that we have experienced an additional 32-percent increase in our workload compared to the first quarter of fiscal year 1984.

The budget request approved by the Commission and before you today totals $28,901,000 and represents 482 full-time permanent positions. This is an increase of $3.5 million over our fiscal year 1985 appropriation. However, this is essentially a request to fund operations at the level Congress already authorized for fiscal year 1985. No program increases are funded by this request; rather, the amount is necessary to fund our current programs at the 1985 authorized strength throughout the fiscal year of 1986.

There is little prospect that the forces producing so many requests for import relief will recede any time in the near future. Part of the surge in our caseload can be traced to the steep appreciation of the dollar in the last four years which has drawn foreign products into U.S. markets. All types of industries—smokestack to high tech—are turning to us for relief from intense foreign competition.

Compounding the problem of the "super" dollar are fundamental shifts in the comparative advantage of many U.S. manufacturers. Firms in newly industrialized countries, particularly in Asia, are posing new challenges to established U.S. industries.

Of course, our work consists of more than just import relief investigations. We also prepare fact-finding reports and analyses under section 332 at the request of Congress and the President for use in the development of U.S. trade policy. And we try anticipating the needs of trade policymakers by occasionally self-initiating reports.

During fiscal year 1984, the Commission had 48 active studies. Through the first quarter of fiscal year 1985, again our latest figure, the pace quickened as the Commission instituted nine new studies, four of which were at the request of the Ways and Means Committee.

Our independence, analytical expertise and data gathering ability will continue to attract requests for timely reports on current trade issues. This requires us to develop and maintain expertise in new areas to keep up with developments in international trade. Recruitment of personnel has intensified in fiscal year 1985. We are placing strong emphasis on attracting well-educated, experienced, high-quality applicants who can be trained and retained so as to build a solid cadre of professionals in international trade. This process is time consuming and costly but it is essential if we are to maintain the solid trade expertise that Congress, the President, and the trade community have come to expect of us.

I would like to conclude on a personal note. My position at the Commission for the last 6½ years has allowed me to observe firsthand the internationalization of the U.S. economy and to appreciate the heightened importance of the work at the Commission. I credit the Commission's staff for maintaining, in the face of these rapid changes, the high standards of quality and objectivity that Congress expects us to meet.

Few agencies are experiencing such disproportionate growth in responsibilities relative to their very small size. Our work increases when American industry is feeling injured. In effect, we provide a safety net for American business when times are tough in trade, much as unemployment compensation helps tide over workers buffeted by economic vicissitudes. The current trade problems are exerting tremendous pressure on all of us but we are confident that, with the support of Congress, the Commission can meet the challenge.

In submitting the Commission's budget request for fiscal year 1986, I firmly believe we will need every penny of it if we are to serve our objectives as defined by Congress.

Mr. Arnold and I will be pleased to answer any questions you may have. I thank you.

[The prepared statement follows:]

Statement of Paula Stern, Chairwoman, U.S. International Trade Commission

Mr. Chairman and members of the Trade Subcommittee, thank you for inviting me to present the Commission's budget request for fiscal year 1986. Accompanying me today are Commissioners Eckes, Lodwick and Rohr, and Rick Arnold, Director of Finance and Budget.

Last month when the GNP statistics were released it was reported that 1984 was the most robust year for economic growth in the United States in over three decades. This report confirmed the view held by many that the economy is coasting into the third year of recovery.

Unfortunately, there has been no recovery at the ITC, or in the industries with which we deal. Because, last month it was also reported that in 1984 the U.S. chalked up a trade deficit of $123.3 billion, its largest in history. This was the third consecutive year in which a record trade deficit was set. Because the work at the Commission closely parallels the activity in the international arena, we have been busier than ever.

The budget request approved by the Commission totals $28,901,000 and 482 full-time permanent positions. This represents an increase of $3,522,000 over our fiscal year 1985 appropriation, assuming that we receive a supplemental appropriation for the January 1985 cost-of-living pay increase. This is essentially a request to fund operations at the same level as authorized for FY 1985. This amount is necessary to fully fund our authorized positions during FY 1986. There are no program increases to be funded by this request.

Let me briefly explain the reasons for the increase over FY 1985. Over one-half of the increase, or $1.8 million, is devoted to paying salaries to an increasingly professional staff One-third, or $1.2 million, pays for various non-personnel costs, such as equipment rental, printing and other services, and supplies and materials. The remainder of the increase, or $500,000 is due to several other factors, including the increased rental for our current space and annualization of the costs of the 44 new positions which last year Congress authorized for FY 1985.

Mr. Chairman, I believe this amount represents the bare minimum necessary to meet our obligations for what we expect will be an extremely busy year. I should stress that most of our workload—the number of investigations—is beyond our control; we are usually responding to statutory requirements. Furthermore, much of our workload is subject to tight statutory deadlines.

I would like to take a few moments to review the increasing demands on our resources. Of course, the part of our workload receiving the greatest attention is the decisions we make in import relief cases. We face an avalanche of requests for import relief. In FY 1984, we instituted 42 more cases than in the prior year, an increase of 26%. In the first quarter of FY 1985, we instituted 17 more cases than in the corresponding period in FY 1984, an additional increase of 32%. Indeed, our caseload so far this year is exceeding the projections on which our budget request was based.

Our caseload has been growing not just in size but also in the diversity and complexity of the cases brought before us. The antidumping and countervailing duty statutes continue to be our most active areas. During FY 1984 the Commission had 151 active cases in this area. Although steel and other manufactured products are the most frequent subjects of these investigations, cases involving other industries, such as agriculture, chemicals and high tech products are on the rise, reflecting the increased import sensitivity of the U.S. economy across-the-board.

A rapidly growing part of our caseload involves unfair trade practice cases filed under section 337 of the Tariff Act of 1930. The protection of U.S. intellectual property rights has been given a high priority, as evidenced by several provisions in the Trade and Tariff Act of 1984. The Commission worked on 74 unfair trade practice cases in FY 1984, a 25% increase over the prior year. We are increasingly drawn into complex issues in these cases. For example, during FY 1984 six cases were declared "more complicated" and extended to 18 months as compared to 5 cases being extended during the prior eight years.

Many of our most celebrated cases are filed under section 201, also known as the "escape clause". As you know, 1984 was a big year for us in section 201, as we completed six escape clause cases. Although conventional wisdom holds that these cases are reserved for election years, we already have two section 201 cases before us this year, and expect this caseload to surpass the prior year. We expect a continued high level of interest in section 201 in FY 1986.

We see little prospect that the forces that are producing so many requests for import relief will be reversed any time in the near future. Part of the surge in our caseload can be treated to the strong dollar, which has stubbornly defied predictions that a decline in its value is imminent. Each passing day finds new record highs being set relative to the currencies of our major trading partners. The steep appreciation of the dollar in the last four years has priced U.S. goods out of foreign markets and has drawn foreign products into U.S. markets. Industries that previously faced little or no serious threats from foreign competition suddenly find themselves turning to us for relief.

Underlying the high value of the dollar are fundamental shifts in the comparative advantage of many U.S. manufacturers. Firms in newly industrializing countries, particularly in Asia, are posing new challenges to many established, basic industries in the U.S. Thus, many indicators point to further increases in our caseload.

I would like to make two brief points about our caseload forecasts. First, if recent history has taught us anything it is that we have consistently underestimated the demands placed on our resources. Already, our 1st quarter FY 1985 estimates have proven to be understated substantially. Second, our projections were made before the Trade and Tariff Act of 1984 was enacted, so any increases resulting from this legislation were not included in our projections. As an example of this, the Trade and Tariff Act of 1984 requires the President to conduct an extensive review of the Generalized System of Preferences (GSP) by January 1987. As part of this review the Commission will be required to conduct an investigation with respect to all articles in the GSP. The magnitude of this investigation, which we did not account for at the time our budget projections were made, is estimated to require a significant effort in FY 1986.

Of course, our work consists of more than just import relief investigations. Another important responsibility we have is to prepare fact-finding reports and analyses for use by Congress and the President in the development of U.S. trade policy. Much of this work is conducted under section 332 of the Tariff Act of 1930. Studies under section 332 are usually requested by our oversight committees or by the President. In addition we try to anticipate the needs of trade policymakers by self-initiating 332 studies; for example, assessment of the U.S. commuter and business aircraft industries. Due to the current work being performed on a self-initiated study of the Internationalization of the Automobile Industry and Its Effects on the U.S. Automobile Industry, the Commission had the basis for a quick and meaningful response to congressional inquiries on voluntary restraint agreements. Because our research is so closely tied to the policy process, we view this as one of our most important functions.

We are increasingly involved in preparing background studies on sensitive and controversial issues. For example, at the request of the Ways and Means Committee, we recently completed a three-phase study on foreign industrial targeting, and we have underway a study on the effects of certain foreign natural resources pricing policies on U.S. industries. We have also conducted studies on convict labor imports to the U.S., foreign trade zones, and product counterfeiting by foreign producers. During FY 1984 the Commission had 48 active studies. Through the 1st quarter of FY 1985 the Commission instituted nine new studies, compared to four last year. Seven of the new studies are direct requests of the President or the Committees on Ways and Means and Finance.

Section 332 also keeps us very involved in studying emerging issues and industries. As the service sector assumes a higher profile in trade debates, we expect more requests like the one we recently received from the U.S. Trade Representative's Office, in which we were asked to study competition between the air cargo and surface transportation industries in Japan and the U.S. This report will be used to assist the U.S. in current negotiations with the Japanese on this subject. Also, we have self-initiated a study on current developments in barter and countertrade. A number of emerging industries have been the subject of recent studies, including the biotechnology, robotics and telecommunications industries. The Commission is often called upon to provide assessments of the probable economic effects of possible trade agreements. For example, last year we studied the U.S.-Israeli free trade proposal and the proposed duty elimination of semiconductor tariffs, and we have underway an investigation on the probable economic effects of sectoral free trade with Canada. I have previously mentioned the increased work we face in 332's assisting the President with decisions he must make regarding product eligibility under the Generalized System of Preferences.

Our assistance in providing advice in negotiations will increase significantly if the major trading nations decide to embark on the new round of trade negotiations called for by the President in his recent State of the Union address. In addition, the Multifiber Arrangement, which governs world textile and apparel trade, expires in 1986. We have two studies underway, one on emerging textile-exporting countries and one on the MFA itself, which also should be useful in consideration of what to do in 1986. Parenthetically, this deadline could possibly generate more textile cases at the Commission.

Many of the section 332 studies focus on the competitive conditions of a specific industry that may need help in devising a strategy to meet foreign competition. Recently completed studies have covered industries that produce fabricated structural steel, household furniture, industrial molds, sheet vinyl flooring, and hand tools.

To round out a description of the full range of the ITC's activities requires mentioning the continuing role the Commission is playing in the conversion to the Harmonized System, and the listing of periodic reports on several commodities, including motor vehicles, footwear, steel, rum, and mushrooms.

Just last week, the ITC received a USTR request under 332 to monitor the performance of the steel industry as part of the Administration's program to limit steel imports. In addition, we provide our oversight committees numerous reports on proposed legislation to be used as background material for committee consideration of these bills. During FY 1984 we provided assistance on over 120 pieces of legislation.

Our independence, analytical expertise, and data-gathering ability will continue to attract requests for timely reports on current trade issues. This creates a continuing need to create and maintain expertise in new areas in order to keep up with developments in international trade. Congress also gave us a new function last year. In conformance with the Trade and Tariff Act of 1984, we recently established the Trade Remedy Assistance Center. This Center will provide one central location in the Federal government for obtaining information on the major trade remedy statutes. In addition it will provide technical assistance to those small businesses that would like to file cases at the ITC but cannot afford to do so. At this time we cannot even begin to measure the workload implications of this function.

Please note that the Commission's budget request includes no funds for the relocation of our activities to a single location in downtown Washington. Last year Congress passed and the President signed legislation that transfers our current building, where most of the staff works, to the Smithsonian Institution when a suitable location for us has been found. Under that legislation, we are required to report to you and several other congressional committees monthly, so I will only summarize our relocation actions.

Internally the Commission has taken several measures to prepare for our move, but little more can be done until a site is selected. I have been working with the General Services Administration to prepare an advertisement for our space needs. I expect the solicitation to take place this Spring, and hopefully a site can be selected this Summer. At the time the budget was prepared there was much uncertainty regarding our move, so a request for relocation funds would have been premature. Once a firmer schedule for our move has been set, the Commission will be in a better position to predict our costs. At that time, the Commission will likely come back to you with a request for additional funding.

I would like to conclude on a personal note. I have been a Commissioner for 6½ years. I have personally witnessed the impact of the Trade Act of 1974, the Trade Agreements Act of 1979 and the advent of the Trade and Tariff Act of 1984 on the ITC's operations as well as the enormous growth of our workload to its current crescendo. My position at the Commission has allowed me to observe first-hand the changes that have taken place in the American economy and to appreciate the heightened importance of the Commission's work. The Commission's staff deserves much credit for the manner in which they have reacted to the changes that have taken place. Few agencies have experienced and continue to experience such disproportionate growth in responsibilities relative to their size. Our staff has sought to maintain the high standards of quality and objectivity that Congress expects us to meet.

In submitting the Commission's budget request for fiscal year 1986, I firmly believe we will need very penny of it if we are to serve our objectives as defined by Congress. Mr. Arnold and I will be pleased to answer any questions you may have. Thank you.

Chairman GIBBONS. May I ask if any of the Commissioners wish to add anything to the statement that has been made or have any statements themselves?

[No response.]

Chairman GIBBONS. If not, I want—I did not realize you had been there 6½ years.

Ms. STERN. Yes, sir; I finally learned the job.

Chairman GIBBONS. I guess if I wanted to be cruel, I could say look how much the trade deficit has gone up in 6½ years, but I am not going to be cruel because I know you are not responsible for that. But I do recognize how much trade in total has gone up in 6½ years, and trade now is growing at the rate of about $100 billion a year. That is a lot, is it not, Harry? When you look back, when Harry used to be the whole trade staff of the Congress here, trade in those days was about $50 billion. It is now some 12, 13 times higher than that, and that has not been any time at all.

I guess I would say all that to put it in perspective. We cannot expect agencies like yours to continue coping with larger and larger and more and more problems and still cut back. If you do something drastic and cut the whole government back, then we can take the radical step and cut back your function. But cutting back your function is just going to make sure that the bankruptcy courts get more business or that the unfair trade practices grow.

So it is not one of those wonderful decisions we like to make. I have greater sympathy for Solomon every day.

You say your workload went up 26 percent in 1984 and then up 32 percent the first quarter of 1985 over the first quarter of 1984?

Ms. Stern. Yes, sir; precisely. That is our caseload.

Chairman Gibbons. I realize caseload is not the whole measure by which you should be considered.

Do the cases tend to get more simple or more complex, or are they still sort of a mish-mash of everything?

Ms. Stern. Well, they have, of course, in their complexity tracked the changes in the laws that Congress has enacted.

Chairman Gibbons. That is going to be complex.

Ms. Stern. That is going to be complex and they do change. And some of the changes even, I think, encourage practitioners to exercise the trade laws to see what the changes will mean.

But looking just at section 337, which deals with, as you know, intellectual properties, copyrights, trademark and patent infringement cases, we have definitely seen a trend in those cases to be declared more complicated so that the normal 12-month time period can be extended to an 18-month time period. And it is only in very extraordinary circumstances, but we have found that increasingly in the last year or so, those cases have become so complicated that the administrative law judges have recommended that they be given longer time to hear the case and hear the arguments.

The section 201 cases, of course, always present a great challenge in terms of complexity, trying to figure out really what the causes of the serious injury are; and our section 332 studies, which were done at the request of Ways and Means, Finance and the President, have, I think, shown increasing complexity. They have become increasingly analytical. They are no longer just gathering data.

We have been asked to really tackle questions that require analysis, and further we are being asked to look at new issues that we have never looked at before. We are looking in the areas, for example, of services and not just looking at merchandise trade flows. For example, the Trade Representative just asked us to tackle the "service topic" in the air cargo and air transportation study. The foreign targeting study which Ways and Means at your behest asked us to self-initiate clearly had us going into a new area, and to go overseas to study other countries and what their practices are and not just to examine what the U.S. market is. So that has demanded more and more resources, skill and thinking.

Chairman Gibbons. I am glad you bring up these studies because I try to limit requests, and let me assure you that those studies do get used. I have been reviewing, for instance, the study you mentioned on targeting. I have it on my desk for further study. They are very helpful in making decisions, and we appreciate the expertise and the skill with which your Commission is able to put these together.

Ms. Stern. Thank you.

Chairman **Gibbons**. I do not have any further questions. I commend each of you for the fine dedicated job you are doing, and look forward to working with you.

Ms. **Stern**. Thank you very much.

[The following was received for the record:]

FISCAL YEAR 1986 AUTHORIZATION REQUEST—QUESTIONS FOR THE U.S. INTERNATIONAL TRADE COMMISSION FROM THE COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON TRADE

Question 1. Although your proposed budget calls for an increase of $3.5 million, you have indicated that this budget will not result in program or staffing increases. Please explain.

Response. As I stated before the subcommittee, few agencies are experiencing such disproportionate growth in responsibilities relative to their size as is the Commission. The pressures on the Commission's resources continue to build as our workload continues to increase.

The requested funding level is necessary to provide the staff and other resources needed to meet this expanding workload. In the FY 1984 supplemental and for FY 1985 the Congress authorized 44 additional full-time permanent positions, and funded 22. The full effect of these actions will reach fruition in FY 1986, and we will face it in several ways. First, the Commission's percentage of professionals to clericals is changing from 68% in FY 1984 to 75% in FY 1986, as most new hires are professionals. The clerical staff at the same time is becoming relatively more productive, due in significant measure to office automation. Second, a significantly larger portion of the staff are now in professional "career-ladder" positions. Funds must be available to promote deserving employees who have achieved the skills and expertise to perform well, in order for the Commission to retain them.

These items together translate into an increase in the grade point average (GPA) from 10.1 in FY 1983 to 10.3 in FY 1984. The GPA of the Commission is projected to reach between 10.5 and 10.6 by the end of FY 1985. In FY 1986, the average will be 10.8 by year-end, reflecting the first year of full staffing in all the professional positions. Some $1,990,000 of the FY 1986 budget increase request is for salaries and benefits. Of that, $1,350,000 pays for the increasing "professional" complexion of the Commission (as shown in the grade point average), and the balance, $640,000, pays for annualization of both the January 1985 pay increase and full staffing workyears, as well as increased employee benefits (such as FICA, Civil Service Retirement, Life Insurance, and so forth).

The increasing workload, support costs related to a higher staff level and inflationary pressures account for the balance of the FY 1986 budget increase request. These included increased rent charges, increased travel and printing requirements, increased costs for guard services, telecommunications and postage and equipment repair and maintenance.

Question 2. What is the current staffing level at the ITC?

Response. As of the date of our hearing, February 21, 1985, the Commission had 450 of the 482 authorized permanent positions filled, and 15 additional positions were at the final stages of the selection process. Five additional positions are being held for the vacant Commissioner and related staff appointments. The balance of the positions, (12) are now under active recruitment.

In past years the Commission had maintained a traditional 8%-10% lapse or vacancy rate in its staffing levels. Due to the tremendous growth in workload all the resources possible were needed to meet our statutory responsibilities, and the recruitment processes were intensified to fill all authorized positions. Further, pushing this need to intensify recruitment were the losses we feel, from people leaving because of burn out and/or better opportunities in the hyperactive area on international trade, law and economics.

The Commission started recruiting for a majority of the new 44 positions in the spring of 1984. However, Congress did not authorize these 44 positions until August of 1984. The Commission therefore, could not offer positions to candidates as they were identified. As a result of the delay, the majority of candidates identified were no longer available when commitments were extended in late FY 1984. Only during FY 1985 has the Commission been able to actively fill these 44 new positions. In addition, in our effort to reach our authorized staffing level, we have been concerned not only with the time factor, but just as importantly with identifying highly qualified candidates.

The Commission plans to be fully staffed by the end of FY 1985 and to maintain our staffing at the authorized level during FY 1986.

Question 3. Do you anticipate a further increase in your caseload in the face of growing trade deficit?

Response. Yes, we believe the growing U.S. trade deficit and the underlying reasons for this deficit will result in an increasing caseload. Our budget request was fixed in October 1984. Updated figures and forecasts lead us to expect the demand for imported goods to increase as the U.S. economy continues its expansion and as high U.S. interest rates continue to support a very strong dollar. There is in addition the changing structure of the emerging competition from the NICs. Thus, we expect our caseload to grow as a result of increased import competition in areas that until recently were not directly affected by import competition.

Question 4. Have you undertaken any internal studies to assure that the Commission's current resources are being used in the most efficient manner? Is the Commission workload being fairly distributed among all ITC personnel?

Response. The Commission has not undertaken any formal studies to assure the most efficient use of its resources but it constantly monitors its workload to assure allocation of resources to high priority activities.

The Commission's workload is fairly distributed among all ITC personnel; they are all overworked. Our Office of Investigations and the Office of Unfair Import Investigations have been particularly hard-pressed in the last two or three years. The Office of Investigations has found it increasingly necessary to turn to other Commission offices, such as the Offices of Industries and Economies, for assistance in the conduct of statutory investigations. Sixty percent of our statutory investigations are appealed and we must must have a record on which to defend our views. Furthermore, when our workload on statutory investigations is at a high level, the offices which support this work such as Data Systems, Industries, Economies, and the General Counsel are also impacted. Other developments that have affected the overall Commission workload have been the increase in litigation and the development and implementation of the Harmonized Commodity Code.

Question 5. What is the current status of ITC's implementation of section 221 of the Trade and Tariff Act of 1984 establishing a Trade Remedy Assistance Office? What resources have been allocated to this function?

Response. A Trade Remedy Assistance Center (TRAC) was set up within the Office of Unfair Import Investigations as of January 29, 1985. Since the Trade and Tariff Act of 1984 was enacted subsequent to approval of the Commission's budget there is no specific line item for TRAC, but sufficient personnel have been assisted to discharge the informational and assistance functions as we monitor the activity to determine the resources required.

At the present we have three professional staff members working on TRAC. They have responded to about 40 inquiries through the first three weeks of operation. The staff, in addition to handling public inquiries and providing necessary assistance, is in the process of proposing regulations defining an "eligible small business" in accordance with the statute. As Congress suggested, the Small Business Administration as well as ITA of the Commerce Department, has been consulted on this definition.

Question 6. I understand that the budget recommended by the Commission Managers proposed a staff increase of 19 positions for FY 1986, but this proposal was rejected by a 3-2 vote of the Commission. Would you care to comment on whether you feel that the budget proposal which has been submitted would provide adequate resources to meet your workload?

Response. The Commission managers requested a total staff increase of 32 positions and I, as Chairwoman, proposed that only 19 of those be requested of the Congress. The Commission's workload increased 26% in FY 1984 over FY 1983, and in the first quarter of FY 1985 we instituted 17 more cases that in the corresponding period in FY 1985 we instituted 17 more cases than in the corresponding period in FY 1984, an additional increase of 32%. The Commission is continually making administrative improvements in order to provide better services and improve staff production. We are reaching our authorized staffing level and are attempting to remain fully staffed in order to maximize our available capacity and expertise. In October, the Commission as a whole, voted 3-2 not to request additional positions. Our caseload continues to grow in both size, diversity and complexity and I see little prospect that these requests will decline in the near future. Reassessing the proposal in the light of four months more data on the U.S. trade position in the world, and passage of new trade legislation requiring additional manpower as well as unanticipated requests from other government agencies for ITC help and personnel to cope with their own responsibilities, I am even more convinced that the budget proposal as submitted will not provide the resources necessary for the Commission to meet the work mandated to us by statute at a quality standard Congress expects of us.

In past years the Commission has maintained a traditional 8%-10% lapse or vacancy rate in its staffing levels leaving a gap between authorized positions and full-time permanents on board. This is no longer acceptable as the skyrocketing caseload at the Commission has now become a routine occurrence. For example, the section 337 caseload increased by 72% between FY 1981 and FY 1984; antidumping and countervailing duty cases increased by 169% between FY 1981; and antidumping and countervailing duty cases increased by 169% between FY 1981 and FY 1984; and investigations and research studies under section 332 increased by 60% during that same period. The numbers are dramatic but they don't portray the increase in complexity accompanying the increase in quality of ITC's caseload. The Commission intensified its recruitment activities to reduce the lapse rate and assure that resources were available for us to meet our statutory responsibilities. By May of 1984 we had 429 of the 438 authorized positions filled, a vacancy rate of only 2%. In August 1984, at the time the 44 new positions were authorized the Commission had an on-board staffing level of 435 of the 438 authorized positions, a vacancy rate of less than 1%.

The Commission started recruiting for a majority of the new 44 positions in the Spring of 1984, the same time we were attempting to gain essential staff resources by reducing our lapse rate. Congress in a supplemental bill authorized an additional 44 positions. However, that bill did not pass until August of 1984. The Commission therefore, could not offer positions to candidates as they were identified. As a result of the delay, the majority of candidates identified were no longer available when commitments were extended in late FY 1984. Only during FY 1985 has the Commission been able to fill actively these 44 new positions. Though the Commission filled these new positions, some vacancies still remain due to normal turnover. Through the first four months of this fiscal year the Commission filled 27 additional staff positions but at the same time lost 14 of the existing staff to retirement and positions outside the agency. On February 21, 1985 the Commission had 450 of the 482 authorized positions filled. There are 15 positions at the final stages of the selection process and 12 under active recruitment. The five remaining positions are being held for the vacant Commissioner position and related staff appointments. We are currently authorizing overhires in areas of particular likelihood of employee burn out to relieve overwork and achieve better staffing management. Our need to staff up has not, however, caused us to lose sight of the importance of identifying highly qualified candidates.

The Commission plans to be fully staffed before the end of FY 1985 and to maintain our staffing at the authorized level for FY 1986.

Question 7. Can you provide a breakdown as to the approximate percentage of your resources that are devoted to each type of investigation (i.e., 332, 201, countervailing duty, etc.)?

Response. Of the Commission's proposed resources for FY 1986, 44% are chargeable directly to statutory investigations and research studies. This includes, 4% to import injury investigations under sections 201, 203 and 406 of the Trade Act of 1974; 1% for investigations under the Agricultural Adjustment Act; 14% for antidumping and countervailing duty investigations under title 7 of the Tariff Act of 1930 and the Trade Agreements Act of 1979; 13% for unfair import practice investigations under section 337 of the Tariff Act of 1930; 1% for probable economic effects investigations under the Trade Act of 1974; and 11% for investigations under section 332 of the Tariff Act of 1930. Of the remaining resources, 66% are activites required of the Commission in order to meet its other responsibilities, but also to contribute significant indirect support to the investigative activities. Without this indirect support in related activities, the resources charged directly to investigations would be significantly increased. These indirect activities include trade agreement assistance to the USTR, trade monitoring activities, maintaining the Tariff Schedules of the United States, preparing for the Harmonized System and other nonmenclature activities, and management of the Commission's automated information resources.

Question 8. How much of your budget request has been allocated to the development and implementation of the Harmonized Commodity Code (HCC)?

Response. For FY 1986 the Commission has allocated 11 work-years and $667,000 in direct support of Harmonized System activities. However, as with all Commission activities, staff expertise developed throughout the entire Commission is made available in order to meet our statutory responsibilities in representing the interests of the United States.

Question 9. What is the current role of the Commission with regard to the HCC?

Response. Commission activities with respect to the Harmonized System fall into the following categories—

Serves as member of U.S. delegation representing U.S. interests in the drafting of the Explanatory Notes to the Harmonized System—Customs Cooperation Council, Brussels, Belgium.

Provides technical assistance to the Trade Policy Staff Committee in its review and revision of the Harmonized System conversion.

Prepares concordances and other trade data bases in connection with the Harmonized System Article 28 GATT negotiations.

Provides staff assistance to USTR in Geneva and Washington.

Maintains Harmonized System conversion and associated concordances.

Provides technical assistance to the Agriculture and Commerce Departments in their review of foreign Harmonized System conversions.

Develops revision of Schedule B and the SIC-based product codes in cooperation with the Census Bureau and the Customs Service.

Question 10. Assuming that the HCC is implemented by the Congress, what role do you think would be appropriate for the ITC in the maintenance of the Code both domestically and internationally?

Response. If the U.S. does adopt the Harmonized System, an administrative mechanism should be legislatively established for representation of United States interests on the Harmonized System Committee, the Committee established by the Harmonized System convention for administration and maintenance of the Harmonized System. In view of the technical nature of the work, the unique expertise of the Commission, and, particularly, the experience gained by the Commission during the developmental stages of the Harmonized System, we believe the Commission could play a meaningful role on that Committee in ensuring that the business interests of the United States are taken into account in the maintenance of the Harmonized System.

Domestically, the Commission should continue to publish and keep up to date the U.S. Tariff Schedule and to chair the interagency committee which creates and maintains necessary statistical annotations to the reporting systems for imports and exports, and seeks to establish the comparability of those trade data reporting systems with systems for the reporting of domestic production.

Question 11. What is the current status of your proposed relocation to another building?

Response. We expect the General Services Administration (GSA) to be advertising for 170,000 square feet of occupiable space in a leased building this spring with the possibility of having a building selected for the ITC sometime this summer. The building selected may already be built or will need to be constructed to fit our special needs. Depending on the extent of the work needed to prepare the space for Commission operations we would physically relocate within 12 to 18 months of the building's selection, provided the building is already constructed. Most of the costs for relocating will have to be incurred prior to our moving to the new location. We are currently working with GSA to determine who will be obligated to pay for these costs. Because this is a forced relocation, we expect GSA to pay for some of the expenses, but ITC will have to pay for much of the costs associated with our special facilities such as hearing rooms, libraries, printing plant and a computer room. If it appears within the next few months that a selection of a site is possible for ITC by this summer, we will submit an amendment to the FY 1986 budget request to cover the Commission's portion of relocation costs.

Chairman **Gibbons**. Next we have the U.S. Department of Commerce, Mr. Wethington.

STATEMENT OF HON. OLIN L. WETHINGTON, DEPUTY UNDER SECRETARY FOR INTERNATIONAL TRADE, U.S. DEPARTMENT OF COMMERCE

Chairman **Gibbons**. Mr. Wethington, you may proceed as you wish.

Mr. **Wethington**. Thank you very much.

Chairman **Gibbons**. Do not read to me a long time.

Mr. **Wethington**. I do not intend to read my statement, only to submit it for the record.

Chairman **Gibbons**. All right, sir.

Mr. WETHINGTON. I would like, if I may be permitted, to offer several minutes of oral remarks to highlight.

Chairman GIBBONS. We would like to have you do that.

Mr. WETHINGTON. The differences between the present fiscal year's budget and our 1986 budget request, fall primarily in two areas. One is an increase which is requested for our statutory responsibilities in the area of trade administration, both on the export control and enforcement side as well as on the import side.

The second measure area involves a decrease and the proposed elimination of the Trade Adjustment Assistance Program.

Let me comment just briefly on each of those two.

First, on the export side, the increase is requested to improve the efficiency of the system, the efficiency of the processing of export license applications, and the main item there is related to the committee's desire, over the space of about 2 years, to fully automate the export licensing and enforcement system. That is to say, to be able to acquire the hardware and the software that will enable us to merge not only the licensing system but also the data that supports that licensing system, the case histories, as well as the enforcement data, to merge it on a secure basis so that we can effectively and more quickly process the license applications that are filed by U.S. industry.

The import component of the increase is related to our statutory functions of administering the antidumping and countervailing duty laws. We have requested an increase of roughly $1.8 million for 37 positions. We now have a caseload that is considerably higher than the caseload we had in 1980 when we had about 20 percent more people than we have today.

These positions have been requested to meet what we see to be a growing resort to those statutes in the future.

In 1980 we had roughly 40 to 50 cases. In 1984 that number jumped to 122, and in fiscal year 1985 we are running at a rate of roughly 150 cases despite the recovery domestically.

We see ourselves as being subject to a growing caseload, with additional demands such as the demands placed on us in terms of monitoring the steel arrangements that will shortly be in place.

Turning now quickly to the one area, a significant area in addition to management savings which we are also proposing and which are identified in my prepared statement, the area of trade adjustment assistance for which the administration is proposing for a partial rescission in fiscal year 1985 and for its complete elimination in fiscal year 1986. That program, though well-intended, has simply not met the expectations and the goals laid down for it. The history of that program, both in its administration by EDA, that is, the Economic Development Administration, which is also a part of Commerce, as well as more recently ITA, which now manages the program, reveals a history of efforts made to assist firms that have been negatively affected by imports. It has had very few positive results.

Their return, if that may be the case to competitiveness, it will be the product of more basic change and forces more fundamental than the efforts that the Federal Government can make on an individual firm's effort.

That would conclude my oral summary, Mr. Chairman. I will be glad to take your questions.

[The prepared statement follows:]

STATEMENT OF OLIN L. WETHINGTON, DEPUTY UNDER SECRETARY FOR INTERNATIONAL TRADE, U.S. DEPARTMENT OF COMMERCE

An overview of the International Trade Administration's fiscal year 1986 appropriations request.

Our budget request of $171,972,000 and 2,839 positions reflects this Administration's strong commitment to broadening market opportunities for American business abroad, to improving the competitive posture of U.S. internationally and to administer effectively our trade laws and regulations. Because of the continued importance of international trade to the health of our national economy, we should assure the institutional resources necessary to meet our national objectives of free and fair trade.

The amount requested for 1986 includes two key program increases for Trade Administration of $12,619,000 and 145 positions and one decrease and elimination of the Trade Adjustment Assistance program through the use of an fiscal year 1985 rescission of $18,750,000 and an fiscal year 1986 decrease of 28 positions and $6,250,000. This budget also reflects the President's Deficit Reduction Program, which is comprised of several components including a selective program cost freeze, implementation of the Deficit Reduction Act of 1984, reduction of administrative activities and related costs, a 5 percent pay reduction, and consolidation of select administrative functions. Savings associated with this effort total $15,818,000 and 13 positions.

As you know the programs operated by the International Trade Administration are grouped into four activity areas: Trade Administration; Trade Development; International Economic Policy; and the U.S. and Foreign Commercial Service.

TRADE ADMINISTRATION

For the Trade Administration activity, we are requesting $41,804,000 and 702 positions, an increase of $12,619,000 and 145 positions over the 1986 base. Of the increased amount, $10,809,000 and 108 positions are for export control activities in Export Administration and Export Enforcement, and $1,810,000 and 37 positions are antidumping/countervailing duty activities in Import Administration.

More Efficient Export Control Program

In the export control area, these increased resources are necessary to continue to meet our obligations under the Export Administration Act and build upon accomplishments of the last few years. Since 1981 we have made significant strides in improving export licensing administration and strengthening the enforcement of export controls.

In the past year we instituted new procedures for the processing of license applications to Free World destinations, which we call "Fast Track." Under these procedures, we have been able to perform more consistent and stringent reviews and reduce the average processing time from 46 days in the second quarter of fiscal year 1984 to 26 days in the fourth quarter of fiscal year 1984. This trend is continuing in fiscal year 1985 with the average processing time for these licenses further declining to 20 days in the first quarter of fiscal year 1985. This reduction in processing time is even more significant when you consider that the number of Free World license applications received has increased 61 percent since 1980 (from 65,000 in 1980 to 105,000 in 1984).

With the additional resources we received in FY 1984, we completed a comprehensive revision of the distribution license program. With the pending publication of strengthened regulations and the reinstatement of a vigorous distribution license audit activity, a sound program will be in place to meet our national security concerns while not unduly impeding legitimate trade. In 1984 we completed 18 audits, the first since 1978. We feel that this distribution license auditing activity is critical to the overall program. Accordingly, we are requesting a further increase of 6 auditor positions to enable us to meet our goal of performing 115 distribution license audits annually by 1987. We are also requesting 4 positions to enable us to further reduce the average processing time for distribution licenses to 30 days.

As you know, an agreement was reached on January 4, 1985, where the Department of Defense would review license applications in selected Commodity Control List categories for exports to a limited number of Free World destinations. The number of such cases requiring referral to Defense represents an increase of about 12,000 annually. To avoid an increase in processing time and the corresponding negative impact on U.S. exporters' competitiveness, an increase of 8 positions is required.

Over the past two years, we have devoted considerable effort to consolidate and improve our License Accounting and Retrieval System (LARS) that tracks export license applications through the manual licensing process. While we have reduced LARS's average response time, redesigned the license application status files and completed conversion of LARS data to the new status system, the inherent limitations of the LARS system demand a more comprehensive and integrated approach to meet all of our export control ADP support requirements.

Therefore, an increase of $4,073,000 is requested to develop and implement an export control automated support system (ECASS). This increase supports an overall 31-month design, development and implementation plan which meets the program requirements not only for the tracking of individual license applications, currently fulfilled by LARS, but also the export system's requirements for secure processing to support export enforcement, foreign availability, technical and intelligence activities. In addition, such an integrated approach will permit full automation of the current manual licensing and enforcement application screening processes, and significantly reduce average processing times for license review while insuring consistency in licensing decisions.

The imposition of export controls without sufficient enforcement of those controls is ultimately self-defeating. Our export enforcement effort has paid handsome dividends. In 1984 our Office of Export Enforcement referred 51 cases to the Department of Justice for criminal prosecution. To date 39 parties have been charged and 14 parties have been convicted. In addition, the largest single criminal ($3.1 million—DataSaab) and administrative ($1.5 million—Digital Equipment Corporation) fines were imposed in the history of the Export Administration Act. While these figures are impressive by any standard, they are still sanctions imposed after the technology has been illegally transferred. From our point of view, prevention of such illegal transfers is paramount. In this regard, in 1984 the close interaction between our licensing and enforcement personnel in identifying and conducting pre-license checks of suspect export recipients resulted in the denial of some 230 license applications for exports valued at almost $200 million. It is this prevention aspect of our export enforcement strategy and our licensing regime that most fully meets this government's export control objectives.

To fully exploit this proven approach to export enforcement, we are requesting an increase of $4,087,000 and 74 positions. This will enable us to strengthen our existing four domestic field offices (14 positions), open up to six new domestic field offices in U.S. high technology centers (36 positions), and strengthen our headquarters' investigative management and intelligence analysis capabilities (24 positions).

Balanced Decontrol Initiative

Many of the improvements we have made in our export control system over the past several years have focused on those activities directly related to the review of licenses. However, while this process has been made more efficient, we must address the overriding issue of reforming the Commodity Control List (CCL) which governs the licensing and enforcement processes. Increased review and where appropriate, decontrol of CCL entries is needed to accurately reflect changing technologies. Such a concerted effort will increase the likelihood that the CCL controls those commodities and technologies which are truly strategic and decrease the negative impact of controls on U.S. exporters. In addition, it will enable this government to develop technically justified proposals for adoption by our allies in COCOM's now annual, instead of triennial, List Review. We are requesting $1,290,000 and 16 positions to accomplish this reform of the CCL.

These series of increases in the export control area represent a carefully balanced and prudent approach to achieving efficient administration and effective enforcement of export controls without impeding legitimate exports.

Strengthened Import Administration

An analysis shows that the workload associated with unfair trade complaints has increased significantly while the full-time permanent positions available have actually declined since 1980.

Compared with 1980, about 20% less permanent support has been allocated to import administration

Prior to 1980, about 40-50 relatively simple AD/CVD cases were filed each year. In 1984, 122 cases were initiated, many of which were very complex.

There has also been an increase in the number of AD/CVD orders which require annual review; 110 in 1980 to 188 now.

Our resources are stretched beyond reasonable limits. Therefore, we are requesting an increase of 37 permanent positions and $1,810,000 for Import Administration in 1986 to:

Fulfill statutory obligations under the AD/CVD law through investigations as measured by lowered analyst to investigation and respondent ratios;

Conduct annual reviews of AD/CVD cases, reduce the backlog of cases, administer the U.S./EC Steel Agreement, assist in current steel investigations and suspension agreement discussions, and provide steel trade policy advice; and

Fund ADP computer support for increases AD/CVDS case investigations.

TRADE DEVELOPMENT

For the Trade Development area, we are requesting $25,859,000 and 506 positions, a net decrease of $6,250,000 in appropriated funds and 28 positions from the 1986 revised base.

Eliminate Trade Adjustment Assistance

We are again proposing that the Trade Adjustment Assistance program be terminated. Our reasons remain the same; the program simply does not work.

Our assistance for industries to yield industry-wide solutions to problems concerning marketing, management, production operations and application of appropriate technology—despite isolated accomplishements—on balance has not worked. Despite the goodwill and increased communications between these industries and the government there has been little translation of public resources into the hard currency of improvements in the ability of these industries to withstand import competition.

Recent evidence reaffirms earlier analyses that TAA had not in general assisted adjustment. A recent draft Inspector General report found that less than five percent of firms entering the program were impacted positively by the assistance.

The above finding is doubly disappointing in light of significant steps ITA has taken to manage better the programs, e.g., better quality adjustment plans, tightened loan procedures, and more timely delivery of TAA assistance.

The trade adjustment assistance program singles out those firms impacted by trade for assistance. Indeed, it has permitted entry into a government aid program at taxpayers expense, firms that meet a simple test of having suffered some business reversals because of imports but, in general, suffer far more seriously from problems due so changes in consumer tastes, management, heavy debt loads, marketing philosophies and other problems from which Trade Adjustment Assistance cannot hope to rescue them. The program raises false expectations among businesses that government intervention in the management of private sector firms can meaningfully rectify competitive disadvantages. Consequently, we propose to terminate TAA beginning in 1985 with a rescission of $18,750,000.

Sectoral Programs

Our trade information and analysis programs and our sectoral programs will continue at FY 1985 levels. These programs provide the domestic and international industry analyses which support government policy functions and business planning. In addition, our sectoral organizations work with small and medium-sized firms in preparation for participation in government-sponsored export promotion events.

INTERNATIONAL ECONOMIC POLICY

For our responsibilities under the Assistant Secretary for International Economic Policy, we are requesting $9,918,000 and 200 permanent positions. Our responsibilities in this area to contribute to the development of regional and multilateral economic policies which enhance U.S. trade and investment interests, provide marketing services which will further U.S. market access abroad, and develop remedial strategies applicable to long-term trade and investment problems.

The International Economic Policy (IEP) area is organized on a regional basis with policy, analytical, and marketing functions combined for individual countries.

Through its Office of Multilateral Affairs, IEP assists interagency implementation of the GATT Agreements and participates in developing USG policies in the OECD and UNCTAD. IEP, working with the Foreign Commercial Service and other parts of ITA, fulfills the Commerce Department's responsibilities for monitoring foreign compliance with the MTN codes. In addition, we work closely with the USTR, through the interagency process, on GATT policy matters.

U.S. AND FOREIGN COMMERCIAL SERVICE

For our U.S. and Foreign Commercial Service activity we are requesting $71,631,000 and 1,267 positions. The U.S. and Foreign Commercial Service promotes the growth of U.S. exports through delivery of services at sites convenient to the business community in the United States and in overseas markets. These sites include 48 District Offices in the United States and 124 posts in key export markets in 68 countries throughout the world. We have made substantial improvement over the last three years in enhancing the quality of our personnel and business services.

ADMINISTRATION

Finally, we are requesting $22,760,000 and 164 positions to provide administrative management services that support ITA program areas. This amount also funds centrally budgeted items such as office space rental payments to GSA, telephone payments, and Working Capital Fund payments to the Department.

Chairman **Gibbons**. I am worried about the ongoing battle between you and the Defense Department on export administration. I frankly would much rather have that export administration function centralized in your agency rather than put it in the hands of the Pentagon with advice from the Pentagon as to what they think are sensitive military items or sensitive military technology.

What kind of operation are you all functioning on now? Who is running the export licensing business?

Mr. **Wethington**. We are charged, Mr. Chairman, by statute with administering that program and, obviously, also as a part of the statutory scheme several other agencies, most notedly DOD, participate in that process. I think by and large the publicity and references to conflict that have appeared in the press over the last several years are exaggerated. I think there is, in fact, a fair working consensus between both agencies, and I think a common dedication to, on the one hand, safeguarding our national security concern and, at the same time, trying to make that system more efficient in terms of reducing the licensing time that is required for applicants.

Chairman **Gibbons**. How long does it take you to process the average application, if there is anything such as an average application?

Mr. **Wethington**. It varies, Mr. Chairman, with the type of application. If one is talking about an application to transfer from this country to another Western destination such as Europe, so-called Free World destination, the time on average for those types of licenses is roughly 20 days. That is compared with about 46 days only a year ago. And for 80 percent of the licenses for Western destinations we are now getting those out in about 2 weeks. If one is talking East bloc cases, the period of time is somewhat longer because inter-agency review is required. Those cases are running somewhere in the range of 3 to 4 months on the average. However, that represents about a 1- to 2-month decline from the average only a year ago.

Chairman **Gibbons**. Let us talk about the licensing of the selling of commercial air transport planes. Do you all license the sale of commercial air transport planes to any Eastern bloc countries?

Mr. **Wethington**. That would be a decision that would not only come within our purview but also many of the items that relate to commercial aviation are subject to the munitions control list.

Chairman **GIBBONS**. The reason why I bring this up is there are really two major world manufacturers of commercial air transportation—the United States and Europe. I know of no restraint for the selling of, say, the A300 series of Airbus in the Eastern bloc countries. I would not imagine though we could sell ours there. And technology is technology, and the planes are about—I probably will get killed by American manufacturers, but they are about equal in the eyes of the pilots that fly them as far as technology is concerned.

I just wonder how we put our people under wraps so you cannot sell your airplanes in those kind of countries.

Mr. **WETHINGTON**. You put your finger on a very important issue. The foreign availability that in many cases exists overseas, where we control a product, will necessarily harm U.S. interests where we are unable to persuade the other government to also control the product, and this is something that we are taking a very careful look at.

We received in last year's congressional appropriation new resources to begin what we call a foreign availability office, which has already been staffed by roughly 2 dozen people, whose sole responsibility will be to identify on as broad a basis as possible those areas where there is foreign availability so that we can factor those foreign availability considerations into the licensing process.

The statute provides the Secretary of Commerce, absent overriding national interest, with authority to license where there exists foreign availability, and we seek to make that a more important part of the licensing process.

Chairman **GIBBONS**. I was not aware we had a statute any more. Didn't it expire?

Mr. **WETHINGTON**. Well, the Export Administration Act has technical expired. We are now operating under the Emergency Economic Powers Act and by Executive order the President has continued under that authority the same functions that previously existed under the EEA.

Chairman **GIBBONS**. Is that under court attack anywhere?

Mr. **WETHINGTON**. There have been several cases, but to my understanding they have not proceeded very far. In fact, I think one or two of them have, in fact, already been dismissed.

Chairman **GIBBONS**. Mr. Pease.

Mr. **PEASE**. Thank you, Mr. Chairman.

Mr. Wethington, I appreciate your testimony. I want to ask you some general questions.

You say your budget reflects the President's Deficit Reduction Program which is comprised of several components, including a selective program, cost freeze and what I am interested in, implementation of the Deficit Reduction Act of 1984.

What was contained in that Act that applies to your agency?

Mr. **WETHINGTON**. The Congress last year in the Deficit Reduction Act mandated cuts in certain categorical areas. They affected our agency in four ways: in terms of our travel budget, our printing and publications budget, which also includes some public affairs functions, third, consultants and lastly motor vehicles. We have made reductions in our base in those areas. I can give you the numbers or supply them for the record, if you wish more detail.

Mr. **Pease**. That is fine.

In the trade administration area you are asking for more money and more positions, 108 positions for export control activities and 37 positions for antidumping and counterveiling duty activities and import administration.

I am trying to get a sense of what that ratio is, where there is a concern about balance there.

You, I know, are concerned about controlling sensitive exports in particular and I can understand why you would want 108 positions.

On the other hand, a lot of us in Congress are very concerned about imports coming into this country, especially those that are dumped or subsidized and it seems to me that if you are going to put new people on and ask for new money, that 37 may not be very much in comparison with 108 that you are asking for in export control activities.

Could you share your thoughts on that with me, please?

Mr. **Wethington**. Yes.

The figures that we have submitted and our budget request in these areas, reflect the assessment of manpower that we require to get the job done. I do not think that assessment is necessarily subject to simple numerical equivalence. These numbers represent our best calculation of what is necessary for us to satisfy our statutory requirements.

Mr. **Pease**. I see.

Mr. **Wethington**. On the export side, if I could, it is in many ways more manpower intensive and so it should be expected that the resources there would be greater.

Mr. **Pease**. You have more people in the field on the export side? Is that the idea?

Mr. **Wethington**. We have in the field people in four offices. Our request includes the resources to augment those four offices and to open six additional ones for purposes of export enforcement.

Mr. **Pease**. I see.

You state in your testimony that you have achieved a significant reduction in processing time for export licenses.

Mr. **Wethington**. Yes, sir; we have.

Mr. **Pease**. I want to commend you for that. I think that is very good.

Mr. **Wethington**. Thank you.

Mr. **Pease**. How about processing time for complaints from companies that worry about imports, counterveiling duties, that sort of thing? What is your processing time for them?

Mr. **Wethington**. We have not only in the last year but since 1981 met every single statutory deadline in an antidumping or counterveiling duty investigation. Those are deadlines prescribed by law, and we have in fact come within those deadlines.

Mr. **Pease**. Good.

In the Trade Act of 1984, we sought to provide more help for American companies that needed assistance, especially small companies that needed assistance in filing complaints of unfair trade practices. Could you tell us what you are doing to meet that requirement?

Mr. **Wethington**. We are willing to sit down, particularly with small- and medium-sized business, as they feel the need to provide them with our sense of what the law requires as far as what is necessary to file a petition, to give them technical advice in that respect. We do not intend to function as an advocate because we are in the posture of being a neutral party. But we are more than willing to make available any assistance that we have in helping small- or medium-sized business prepare their case.

Mr. PEASE. Are you doing that with any particular section or office or is it just you are willing to do it if somebody calls and goes through your normal channels?

Mr. WETHINGTON. Well, to date we have been doing it, it is my understanding, simply as requested. We have not created a new organizational entity under the Deputy Assistant Secretary for Import Administration.

Mr. PEASE. As I go around my district, I run into small companies that do need help. They are feeling import penetration. They have the sense that they do not know where to start even filing an unfair trade practice complaint; and I would like to be able—what I do with companies like that is cite the help the Congress tried to give them in the Trade Act of 1984. What I would also like to be able to do is give them a name and a phone number of whom to turn to. Now, is there such a place?

Mr. WETHINGTON. I will supply that to you, Congressman. I do not have that information with me, but I am sure we have persons who more regularly deal in terms of advising small- and medium-sized business on the requirement for a complaint; and I would be glad to make those names and numbers available to you.

Mr. PEASE. Are you familiar with the language in the Trade Act of 1984, which tried to make help more readily available to American business?

Mr. WETHINGTON. It is my understanding that that provision was focused primarily on the ITC and it was within the ITC that the Act required there be new attention and, I think, an office. But nonetheless, we still feel the obligation to make assistance available of the kind that you are speaking of, and we try to do that where requested, although not with any formal structure per se.

Mr. PEASE. I would very much appreciate it if you would designate a name and office.

Mr. WETHINGTON. I would be glad to.

[The information follows:]

SMALL BUSINESS ACCESS TO AD/CVD PROCEDURES

ITA's Import Administration which adminsters the AD/CVD laws, has designated Gilbert Kaplan as the contact person for small business which seek assistance relating to the AD/CVD laws. Mr. Kaplan is the Director of IA's Office of Investigations. His telephone nunmber is (202) 377-5497.

We continue to do whatever we can to alleviate the burdens on small businesses seeking to learn about the AD/CVD laws. When small businessmen tell us they think that imports are dumped or subsidized, we explain what information is necessary to file a petition, where they can look for such information, and how to prepare the petition itself. Indeed, in some cases we send an Import Administration case analyst to the company to assist in data gathering. In short, we bend over backwards for small businesses to explain possible trade remedies and to assist in the preparation of antidumping and countervailing duty petitions.

Once a petition is filed, we assume responsibility for initiating and conducting the investigation. If there is dumping or subsidization, we find it, whether or not petitioner is represented by counsel or is actively monitoring our actions. Yet, we cannot "prosecute" cases for small businesses. Doing so would undermine at least the appearance of our objectivity, if not our objectivity itself.

Mr. **Pease**. A phone number, and so on.

Does your concern for being cooperative in this respect extend so far as any plans for outreach activities? Is it conceivable within your Department of Commerce publications you might put in a paragraph or two notifying American companies that assistance is available?

Mr. **Wethington**. I think in the past we have publicized our willingness to do this, and I think we will continue to do that in the future. We cannot, however, be in the business of appearing, and I know you are not suggesting this, to drum up complaints or to go out and encourage industry to file complaints where they would not otherwise wish to do so.

But where industry has an interest in doing that and when they come to us, we certainly want them to know that we are available to give them this kind of help.

Mr. **Pease**. Sure.

Well, I understand you cannot act as an advocate and probably it is not even appropriate for you to go out and drum-up business, as you say; but I think it would be perfectly legitimate for you to let people know the service is available and the advice is available if they are interested.

Mr. **Wethington**. I agree.

Mr. **Pease**. Now, I would like to discuss trade adjustment assistance with you for a few minutes.

Would you describe for me briefly what you currently do with the Trade Adjustment Assistance Firm Program that we appropriate money for each year?

Mr. **Wethington**. You mean what the process is?

Mr. **Pease**. What service you provide and how you provide it, what the structure is.

Mr. **Wethington**. Well, our service falls into two main categories: One is in terms of loans and loan guarantees and the other is in the area of technical assistance which is assistance of the sort that would enable a firm to better determine what steps internally they need to take to better meet foreign competition. Much of that process is handled through our technical adjustment assistance centers. We have 13 of those. It is a process that first requires companies to become certified, to make the case that they are in a faltering position and that imports are linked to their predicament.

Once that application is worked through with the Trade Adjustment Assistance Center, on that basis we will consider whether further assistance is appropriate.

Mr. **Pease**. And it is your conclusion, I gather from your testimony, that your TAAC's are not being very helpful.

Mr. **Wethington**. I think the TAAC's are doing the very best they can with the program which we feel most fundamentally is, although well intended, conceptually flawed; and the history of this program has not borne out the conclusion that we have had much impact, either in earlier years or recently, in helping firms significantly make adjustments to foreign competition.

Mr. **Pease**. Of your current budget, you get about $25 million a year; is that correct?

Mr. **Wethington**. That is correct.

Mr. **Pease**. Of that $25 million, how much of it in the last year or the current fiscal year, either one, goes for the loan and Loan Guarantee Program, and how much of it goes for the TAAC's?

Mr. **Wethington**. The Loan Guarantee Program, the direct loan authority is $6.5 million. The guarantee loan authority is $15 million and the TAAC's technical assistance is $13.5, and then we have $2 million overhead that equals the 25, if I am not mistaken.

Mr. **Pease**. You mention an inspector general's report in your testimony, saying less than 5 percent of the firms entering the program are impacted positively.

Mr. **Wethington**. Yes, sir.

Mr. **Pease**. Would you arrange to send a copy of that to my office?

Mr. **Wethington**. Yes. That study will be complete very soon and now exists in draft, and I am sure that very shortly we will make that available. It is available in draft.

Mr. **Pease**. Could I see the draft?

Mr. **Wethington**. I will do my best to get it to you.

Mr. **Pease**. Fine. Thank you.

I understand that about a thousand firms maybe have been certified. Let's see. It says here 1100 firms have been certified from October 1, 1982, to January 31, 1985. Of that total, 514 have submitted adjustment proposals; 477 have had adjustment proposals accepted; and 404 firms have received or are receiving trade adjustment assistance.

Do those figures sound roughly correct?

Mr. **Wethington**. That is roughly correct, sir.

Mr. **Pease**. I would like to relate that back to the 5 percent of the firms entering the program. You were saying that out of 477 firms that have had adjustment proposals accepted or 404 that have received trade adjustment assistance over the last 3 years only 5 percent of those, roughly 20, have gotten anything out of it?

Mr. **Wethington**. That was the conclusion of the Inspector General.

Mr. **Pease**. Well, I certainly think we ought to have a look at that Inspector General's report.

Mr. **Wethington**. It will be made available.

Mr. **Pease**. If we decide to continue trade adjustment assistance, despite your feeling it is not worthwhile, do you think it would be appropriate for us to transfer that to some other agency?

Mr. **Wethington**. The administration's view is that the program would not be effective housed in any agency. It has been subject to the management of at least two agencies: the EDA, Economic Development Administration, as well as ITA, with no discernible difference in terms of the performance of companies that have received its assistance.

Mr. **Pease**. Well, I think we will receive testimony later today that may dispute that contention.

Mr. Chairman, I have a strong feeling that the administration and perhaps you personally, Mr. Wethington, do not believe in this sort of program. The administration is willing to throw American companies on their own despite the fact that our general commitment to free trade subjects them to more and more import competition, despite the fact that the deficits which this administration has run up create a very strong dollar overseas and effectively give every foreign country sending goods into this country a 25- to 30-percent price break.

Despite all that, the administration basically wants to say to small companies, you are on your own; it is sink or swim. We in the Congress over the years have had a different philosophy. We have felt that if we are going to maintain a commitment to free trade, which generally Congress has tried to do, we have some kind of an obligation to cushion the blow for companies and workers who are victims of that policy, and there will always be victims, and to help them readjust to other lines of manufacture.

So I understand your position. I have a strong skepticism that your position is at least influenced as much by ideology as it is by any findings on the full effectiveness of the program, and we with the cooperation of the chairman expect to find out over the next couple of months just how effective these programs are and make our own judgment about whether they should be continued.

Mr. **Wethington**. We will be glad to explore that question with you in more detail.

With all respect, Congressman, we are very much concerned about the health of small- and medium-sized business, and our opposition to this program is based not only on our sense of what is good economics but also on the fact that these program just has not worked. In good times and in bad times and under several different administrations of both parties, the program has not historically proven effective.

Mr. **Pease**. Well, Mr. Wethington, you say that the administration is genuinely concerned about small business. Ordinarily, when people are genuinely concerned they express that concern in some concrete way. Your judgment is that the TAAC Program is not operating properly. What is the tangible expression of this administration's concern about small business impacted by imports?

Mr. **Wethington**. Let me speak to at least two areas that are within our jurisdiction.

Our agency exists primarily, although we obviously have statutory responsibilities that are regulatory, to promote the export interests of U.S. industry, and I would say that the bulk of what we do in terms of promotion is, in fact, directed toward small- and medium-sized business. The large corporations, while they sometimes use and rely on our services, do not need it in the same sense that small- and medium-sized business does; and it is to those kinds of companies that we try to target the promotional resources that we do, in fact, have.

Mr. **Pease**. So what you are saying is that this administration is concerned about small businesses. It may be interested in exporting. You still have not told me what tangible evidence there is that you are concerned about small businesses that are impacted by imports.

Mr. **Wethington**. We administer two of the significant import laws, import relief laws, antidumping and countervailing duty. As we discussed earlier, we are willing to assist the small business in the preparation and filing of their complaints and where they wish to file them we welcome them and we will pursue them with considerable vigor, and that is in their interest and I think it is a tangible sign of our desire to assist them.

It is just in our view the kind of program that TAA is has not demonstrated historically effectiveness and it is that question that we would be prepared to address in much more detailed settings in the future.

Mr. **Pease**. Thank you, Mr. Chairman.

Chairman **Gibbons**. Before I go to Mr. Frenzel and following up on Mr. Pease's inquiries, it is my impression that the Department of Defense has an adjustment program for areas where bases are being closed down, phased out. Am I wrong in that assumption?

Mr. **Wethington**. Staff tells me they do, Mr. Chairman. I am not familiar personally with it.

Chairman **Gibbons**. I understood those programs were very successful and were widely accepted by the communities and maybe, Mr. Pease, we could just transfer this whole function over to the Department of Defense. We sure would not have any trouble funding it. [Laughter.]

And they seem to know how to do it.

I am not kidding. Despite my efforts in the Army, I found it was a very good educational institution. They tell you what they are going to teach you and they teach you and they examine you and they make it work and they get it done; and there is just something about the discipline of that. Maybe that is what we need. They are not closing down as many bases as they used to. We could get some of their expertise and let them run the program because it is obvious Commerce does not want to run it. It is obvious that Labor does not want to run it. We can just move it some place else.

Mr. **Pease**. Will the chairman yield?

Chairman **Gibbons**. Sure.

Mr. **Pease**. I think maybe you are on to something, Mr. Chairman. My understanding is that Commerce has not been trying very hard to make the services of their TAAC's available to companies that are harmed by imports. In fact, some of the TAAC's are actively discouraged from any outreach efforts, trying to find companies they could help.

With that attitude it seems not surprising that they would report insufficient results.

Chairman **Gibbons**. To say that educational and training programs and research and development types of programs do not work is to fly in the face of everything that most rational people believe. Even some of the irrational believe that. [Laughter.]

But ever since I was about 5 years old, and that has been a long time, I have been taught that education and training was the solution to many of the human problems that we have, particularly when it comes to earning a living. There certainly have been a lot of people that went to college and high school and went to vocational schools that believe that. It must work.

But it is unique. It does not work here.

Mr. **Pease**. Will the gentleman yield again?

Chairman **Gibbons**. Yes, sir.

Mr. **Pease**. Mr. Chairman, I think we may find later on from other testimony that it does work.

Chairman **Gibbons**. Well, I think it does work. It is obvious we have got two agencies that either do not want to administer the program or have been told they cannot, and so we just move it over some place else.

Mr. Frenzel.

Mr. **Frenzel**. Thank you, Mr. Chairman.

It is funny that you recognize me when you are talking about irrational people.

Chairman **Gibbons**. I had not connected the two.

Mr. **Frenzel**. You soon will.

I am one of those irrational people who believe——

Chairman **Gibbons**. That education works?

Mr. **Frenzel**. No. That expressions of concern are necessarily worthwhile if they consist of throwing somebody else's money in an inefficient way at a problem that grieves them.

Chairman **Gibbons**. Nobody would argue with you on that.

Mr. **Frenzel**. The witness is dead right. Three and a half administrations have wrestled with this program, none of them very well. At least a couple of agencies were involved. EDA was involved; you were involved; Labor has had a finger in it. It simply has not been a very good program.

To be sure probably none of them gave enough emphasis. But at least in the way it has been managed, it has hardly been one that has written a record that would encourage most taxpayers to want to see it extended. But enough said on that.

I yield to you, Mr. Chairman.

Chairman **Gibbons**. I have never heard a word of complaint about the one the Defense Department puts on, and they put on a pretty intensive program. If they are going to close down a military base—and maybe they do not close them down up in your area, they send a whole team of people in and they work with the people in the community and work with all the people who are going to be displaced, provide extra education, training and some relocation and lots of benefits, as I understand it. Of course, they do not get many bases closed, but they try.

Mr. **Frenzel**. Well, the gentleman is right. They have closed in the last two or whatever they had in my State long before now, and it is true that the people who got the benefits of training and relocation benefits liked them very much. They were not, however, required by law to lend money to people whose battle plans for the future were not always cleanly drawn, whose bankers did not always support what they were trying to do when they came into this position in extremes.

What we are talking about is firm support for people who are in great difficulty and we were through the magic of Federal loans going to suddenly take them out of their difficulty, but we had not changed any of the conditions and that was asking the agencies involved not to be concerned or to be humanitarian or passionate. What we were doing was asking them to be magicians and they could not be.

Mr. **Pease**. Would the gentleman yield?

Mr. **Frenzel**. I yield to the distinguished gentleman from Ohio.

Mr. **Pease**. I appreciate the gentleman yielding. I think we ought to keep a distinction between the loan and the loan guarantee programs and the technical assistance programs. I have never been a very big fan of loans and loan guarantees, whether they are for firms like this or farmers or anybody else. But the evidence is, and we will hear some later today, that the technical assistance side has been working quite well, and I think that is what Mr. Gibbons is talking about. We are talking about the good old American concept of educating people, going in and saying you have got a problem here; here are some avenues for you to pursue to adjust to that new situation. That is not an expensive program and I think it can be effective.

Mr. **Frenzel.** I thank the gentleman for his contribution and I suspect it can, but I guess if I am impacted by a foreign industry and down on my luck and a guy with a briefcase walked in and said, I am from the Department of Commerce and I am here to help, I would probably throw him out. I do not know. It is like getting help from the IRS. [Laughter.]

In fact, we would not even deny there have been firms that have been helped. There have been success stories. There is one in the Inspector General's report, and that covers not only the loans and loan guarantees, but also the financial assistance side. Those few successes simply do not justify the program if the totality of the firms assisted are examined.

Mr. Chairman, if I might proceed with questions, I have a question.

You responded to the chairman previously about your improvement in handling export licenses and all of us are grateful for that improvement and encourage it. I would ask you to thank all your associates for the work they have done in it and to tell them that they have not quite reached perfection yet, and we will appreciate their continuing striving there too.

Mr. **Wethington.** Thank you.

Mr. **Frenzel.** However, you have a dual job and part of it is to pass promptly on the applications that are meritorious but also to enforce the Export Administration Act.

I would like you to tell the subcommittee what you have done to improve enforcement under that act, and with the knowledge that there are witnesses behind you who would like to get done today. I urge you, if you wanted to, to submit something to the record later and kind of sketch over it briefly.

Mr. **Wethington.** All right.

I would be willing to submit some figures that I think will document the record on this, but just briefly one of the best ways I think to look at what a program produces is not so much what goes in but what comes out, and on the output side we see a significant rise in the number, for example, of criminal investigations that have been referred to Justice and that have been successfully pursued in the last several years.

For instance, in 1983, we referred 37 cases. Last year, that number jumped to 51 and the number of convictions has risen dramatically.

On the conviction side in 1982, we had only two, but last year that jumped to well over a dozen. I would be glad to go into more details on the amount of fines and so forth in a written submission.

Mr. Frenzel. I would like to have you do that in your remarks. This committee has more than a passing interest in the Export Administration Act, more even than our little jurisdictional corner of import laws. The chairman and I have served on a Conference Committee for a long time, unsuccessfully. We can hardly wait to get back to it and sit there for another 9 months working on that this year.

Your materials I think will help us greatly.

In that connection, the President has directed some additional review by DOD in your licensing system. Does that mean that is likely to undermine the good work you have done in speeding up the issuance of the license, that the increased DOD, whatever we would call it, assistance is likely to set back the issuance of those licenses again?

Mr. Wethington. There is hope it will not. In fact, DOD is now receiving for a select number of commodity control entries for 15 countries licenses if they wish to review them. We are optimistic that the system will prove workable because in the President's guidance there is written into the process specific deadlines which DOD will be required to meet and we will be monitoring along with the National Security Council very closely those guidelines as well as the more basic question of whether or not there is utility in this extended review.

Mr. Frenzel. Well, I thank you for that. I hope you would pass on to your colleagues in the Department of Defense that this committee has worried long and tried to cooperate strongly in the problem of deferred licensing, and we are very pleased, particularly with the improvement made in the last 12 months; and it would grieve us sorely, probably cause us to look at the defense budqet with a jaundiced eye, if those folks got in such a way as to delay the issuance of licenses.

Everybody on this committee wants to be safe. We do not want to give away any secrets. We want the Defense Deparment's interests to be protected. We do not want that stuff to molder in the in files of obscure lieutenant colonels in the bowels of the Pentagon while our producers have their letters of credit expire and while competitors take American business away from them. So if you will make that statement with whatever colorful expletives you can add to folks you deal with, we will be indebted to you.

Mr. Wethington. We very much appreciate your concern, Congressman, and we share it and I can assure you that we will be doing our dead level best to see that that does not happen, and we are going to be monitoring this process very closely, keeping very careful records of the amount of time involved in the review process so we will be in a position a number of months down the road to look back and see what, in fact, the record has been.

Mr. Frenzel. You have some export supply control authority and I understand that you have been exercising it over petroleum derivatives.

Where do you derive that authority from?

Mr. Wethington. That authority comes from the Export Administration Act, the short supply provisions of that act.

Mr. Frenzel. Have you ever applied it to petroleum products before, derivative?

Mr. **Wethington**. Yes. There has been in effect, if I am not mistaken, for a number of years and there are also requirements that we administer with respect to that product under the Naval Reserve Petroleum Act.

Mr. **Frenzel**. Could you give me a little statement, a little amplification for the record?

Mr. **Wethington**. I would be glad to.

Mr. **Frenzel**. Not an extensive history, but a brief history of that. I understand that you have taken some of those limitations off, but a few are left on.

Could you inform me either now or in writing for the record when in your estimate the remaining controls will be lifted?

Mr. **Wethington**. Our discretion is not complete because there are certain statutory requirements that apply to the export of petroleum products; but in certain areas that you referenced, in certain specified areas, we have recently proposed some regulation that we think will operate more equitably, and I would be glad to go into that in more detail in a written submission.

Mr. **Frenzel**. This committee does not deal with strategic policies, but we get awfully nervous about export controls. Our feet are filled with bullets from our own revolvers in this country. I hope what you do, that you do it with enormous discretion and as soon as you can disengage, you disengage. We are not terribly—if there is a good market out there for our stuff, other things being equal, we want our people liberated to serve that market and bring a few dollars in.

We have got to eat $130 billion every year and, of course, you are more aware of that problem than we are. So you can bring me up to date for the record on that.

Mr. **Wethington**. I would be glad to.

Mr. **Frenzel**. Thank you very much, Mr. Chairman.

Chairman **Gibbons**. Thank you very much.

[The following was subsequently received:]

Questions Submitted by Mr. Jenkins and Commerce Department Responses

1. What other countries subject to the textile and apparel CVD cases (Argentina, Colombia, Mexico, Malasia, Peru, the Philippines, Singapore, Thailand, and Turkey) have entered or are likely to seek to enter into suspension agreements with the United States? Please tell me about the timing of these agreements or likely agreements, and the involvement of U.S. industry.

2. Wouldn't it make sense—at least in cases such as these where the Department of Commerce has made affirmative preliminary determinations—for the U.S. government to have a policy of requiring the cases to be completed, rather than being cut off at the eleventh hour by hastily drawn agreements? You would then have the benefit of a full factual record on subsidies in the country involved, and you could work out an informed agreement based on the record. It seems to me that all this last minute scurrying around it bound to lead to sloppy agreements—and makes the U.S. government appear only too happy to sacrifice its domestic industry to the political demands of some of our foreign trading partners.

Suspension Agreements in Textile CVD Cases

The Department accepted suspension agreements with respect to Textile Mill Products from Thailand (on March 4) and Textile Mill Products and Apparel from Colombia (on March 5).

In both instances proposed suspension agreements were agreed to ad referendum 30 days beforehand. At that time petitioners were notified of the proposed agreements, given a copy of them, advised that the Import Administration team that negotiated the agreement would discuss the agreement in detail at a time of petitioner's choosing, and reminded of their right to submit written comments on the agreement within the 30-day period. When petitioner's attorneys asked for a full explanation of the proposed agreements, it was provided. Petitioners also submitted written comments. They were reviewed and taken into account by Import Administration. Some were accepted, and the agreements were modified accordingly. Others were not and the reasons were clearly explained in the notice of suspension of investigation published in the Federal Register.

REQUIRING COMPLETION OF ALL SUSPENDED INVESTIGATIONS

The suggestion that the Department not suspend a countervailing duty investigation before completing the investigation (i.e., by making a final determination) is based on a misconception of the process by which the Department considers a proposed suspension of an investigation. The key, we believe, is not to ignore a carefully crafted provision of the CVD law. Rather, it is early submission of a proposed suspension agreement. In the revisions to our countervailing duty regulations we will be requiring submission of proposed suspension agreements no less than 45 days before the final determination. This will ensure that Commerce can study the proposal in depth prior to the due date for initialling a proposed agreement.

The recent suspension agreement in the CVD investigation on Textile Mill Products from Thailand provides a good example of the importance of starting early to discuss whether as suspension is possible. The Thai government first expressed interest in a suspension agreement in early January. Their attorneys prepared a first draft, which was extensively critiqued by Import Administration staff both in Bangkok (where the investigation team was conducting its verification of the information submitted by the Thai government and Thai textile producers and exporters) and in Washington. When Import Administration staff critiqued this proposal, they not only informed the Thai of aspects of their proposal that would have to be changed (e.g., the agreement would have to be based on renunciation of subsidies and could not be based on an export tax), they also determined what information would have to be verified to assess what to require in the suspension agreement. The Thai prepared a revised draft, which was again critiqued as above. After preparing their third draft, a group of Thai government officials came to Washington where, with their attorneys, they held a series of meetings with Import Administration staff at which Import Administration listened to Thai proposals and then explained the terms of an agreement acceptable to the Department. Throughout this period, Washington staff spoke daily with the verification team, which was still in Thailand. Thus, three weeks of intensive work and thought preceded the initialling of the proposed suspension agreement on February 4.

After the initialling, Import Administration did not stop analyzing the agreement. We analyzed petitioners' comments and reviewed the facts found during verification. In the Federal Register notice of suspension of the investigation, the Department responded to all of the petitioners' comments. It also described all changes in the Department's analysis of Thai benefit programs since the preliminary determination.

As this example demonstrates, the suspension process is not hurried, sloppy, or based on incomplete data. A great deal of effort occurred before the proposed agreement was initialled and a great deal more occurred thereafter. Indeed, by the time the investigation was suspended, Import Administration was acting on the basis of the record, and the knowledge, it would have in making a final determination. Of course, petitioners have the right to request that a suspended investigation be continued. Where it is, the suspension would be modified, if necessary, to reflect any changes made in the final determination.

QUESTIONS POSED BY MR. FRENZEL AND ANSWERS SUPPLIED BY COMMERCE DEPARTMENT

Question. Explain the rationale for the decision made by the Department to decontrol petroleum derivatives. When may remaining controls be lifted?

Answer. Prompted by a request from a number of U.S. exporters, an advanced notice of proposed rulemaking was published in the Federal Register on June 29, 1984 requesting public comment on the lifting of the short supply validated licensing requirement on linear alpha olefins (lao's), and other products without a likely energy end-use. The rationale for such a proposal was that commodities not likely to be used as an energy source should be removed from the list of refined petroleum products that require a validated license on export. Fourteen comments were received on the notice, all in favor of such an action. On January 7, 1985, an interim rule with a request for comment was issued, removing the validated licensing requirement on linear alpha olefins and other acyclic organic compounds.

Concurrently, and in response to comments received from the advanced notice cited above, the Department issued a proposed rule, also on January 7, 1985, to redefine the list of petroleum commodities subject to the export prohibition in the Naval Petroleum Reserves Production Act (NPRPA). Both the interim rule on lao's cited above and the final rule on the applicability of the NPRPA are expected to be published in the Federal Register within the next 30 days. Any other modification of export controls on petroleum products will await the revision and/or renewal of the Export Administration Act.

Question. What progress had been made by the Office of Export Enforcement over the past 2 years?

Answer. Over the past two years, the performance of the Office of Export Enforcement (OEE) has steadily increased to a point where we can say without hesitation that Commerce has an export control enforcement organization that is second to none. Before OEE was created, Commerce's enforcement program was carried out by 12 investigators located in Washington and New York working with a budget of only $1.6 million. By FY 1984, OEE had a staff of 51 experienced criminal investigators working out of field offices in Washington, New York, Los Angeles, and San Francisco; a cadre of seasoned intelligence specialists; and an operating budget of $3.8 million.

Increases we have made to our enforcement program have definitely paid off in terms of enforcement results. In FY 1981, we did not refer any cases to the Justice Department for criminal prosecution of export control violators. In FY 1984, 39 criminal cases were referred to Justice as a result of OEE investigations and another 12 cases were referred to Justice as a result of investigations we carried out jointly with other federal law enforcement agencies. In FY 1984, based on OEE and joint investigations, a total of 39 parties were indicted for criminal violations of the export control laws. A total of 14 convictions were obtained during FY 1984 and criminal fines exceeded $7 million compared to $100,000 in FY 1981. The FY 1984 figure for criminal fines includes the largest, collectable, criminal fine ever imposed in the history of export controls, $3.12 million.

OEE's record of initiating administrative enforcement action against violators has also been marked improvement. In FY 1981, only a few cases were referred to Commerce's Office of General Counsel for the purpose of initiating administrative proceedings. In FY 1984, OEE referred 37 cases to General Counsel and obtained civil fines totalling almost $2 million, compared to $209,300 in civil penalties for FY 1983. Moreover, OEE was responsible for the issuance of 14 Orders that imposed either fixed periods of export denial or temporarily denied the export privileges of 63 separate parties located in the United States and overseas.

OEE has also improved its preventive enforcement measures because Commerce believes that an effective enforcement program demands that we do our utmost to identify risks of illegal diversion and thereby prevent sensitive equipment and technology from leaving the United States. In FY 1983, OEE reviewed 5,743 export license applications to identify potential violations and initiated 469 pre-license checks to determine the reliability of the proposed foreign consignee as a recipient of sensitive U.S. goods and technology. The number of license applications reviewed by OEE rose to 9,489 in FY 1984, and the number of pre-license checks initiated by OEE climbed to 874. As a result of unfavorable responses to outstanding pre-license checks and other enforcement concerns indicating a risk of unlawful diversion, OEE recommended the rejection or "Return Without Action" of 675 applications involving commodities and technology valued at more than half a billion dollars.

We have also established a formal group within Commerce known as SEAC, the Strategic Exports Analysis Committee, which is composed of licensing and technical experts from the Office of Export Administration working closely with senior intelligence analysts from OEE. The SEAC undertakes proactive enforcement reviews and analyses by drawing on the experience and expertise of the licensing engineers and other technical personnel skilled in making a critical analysis of sophisticated equipment. These technical skills are then applied to enforcement criteria to develop enforcement leads, profiles, and other valuable data. In addition to SEAC, we have implemented a system that provides for the computerized enforcement review (screeening) of all incoming export license applications to identify potential export control violations.

COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC., February 4, 1985.

Hon. MALCOLM BALDRIGE,
Secretary, U.S. Department of Commerce,
Washington, DC.

DEAR MR. SECRETARY: I anticipate that the Subcommittee on Trade of the Committee of Ways and Means will hold hearings on the President's fiscal year 1986 budget requests for various agencies and programs within its jurisdiction on February 21, 1985. As background information. I would appreciate your response to the attached questions on the trade adjustment assistance program for firms by no later than noon, Tuesday, February 19. Since the program is due to expire on September 30, 1985, the hearings will include testimony on its operation, impact, and possible reauthorization. You will be receiving shortly a notice of the hearing and request to testify.

Thank you for your cooperation.

Sincerely,

SAM M. GIBBONS, *Chairman.*

THE SECRETARY OF COMMERCE,
Washington, DC, February 20, 1985.

Hon. SAM M. GIBBONS,
House of Representatives
Washington, DC.

DEAR MR. GIBBONS: Thank you for your letter requesting information on the Trade Adjustment Assistance Program for firms.

I have enclosed information which addresses the questions you raised. I hope that the information we are providing will be of use to you and other members of the Subcommittee. If you have any questions, contact Acting Deputy Assistant Secretary, August Fromuth on 377-0150.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

QUESTIONS AND ANSWERS ON TRADE AJUSTMENT ASSISTANCE IN RESPONSE TO CONGRESSMAN GIBBONS' FEBRUARY 4, 1985 REQUEST

Question 1. How many petitions have been filed through each of the Trade Adjustment Assistance Centers (TAACs) since fiscal year 1981 and how many of these petitions have been certified eligible for assistance? List by individual TAAC.

Answer. The following chart illustrates petitions submitted and firms certified through each TAAC from October 1, 1980 to January 31, 1985:

TAAC	Fiscal year—									
	1981 petitions		1982 petitions		1983 petitions		1984 petitions		1985 petitions	
	Sub	Cert	Sub	Cert	Sub	Cert	Sub	Cert	Sub	Cert
New England	36	36	33	18	71	55	100	45	16	27
New York State	13	8	33	9	57	43	41	33	12	7
Metro New York	15	18	31	21	102	61	62	55	8	9
New Jersey	38	27	35	27	49	44	53	33	8	8
Mid-Atlantic	39	32	26	16	44	29	43	33	7	3
Southeastern	26	19	21	16	48	33	33	28	5	8
Great Lakes [1]					10	5	44	25	5	5
Mid-West	66	43	34	24	53	36	50	38	7	10
Mid-America	16	17	8	8	21	14	43	25	10	6
Rocky Mountain [2]			9	8	11	5	25	19	4	5
Northwest	23	20	33	22	38	27	24	26	10	3
Western	52	40	41	26	71	61	55	38	19	10
Total	323	260	304	195	575	413	573	398	111	101

[1] The Great Lakes TAAC began operations in January 1983, prior to that date the area was served by the Mid-West TAAC.

[2] The Rocky Mountain TAAC began operations in August 1981; this area was previously serviced by the Mid-America and Mid-West TAACs.

Question. 2a. How much technical assistance has been provided to individual firms by each of the TACCs since fiscal year 1981? List for each TACC the type of assistance granted (i.e., preparation of petitions, diagnostic surveys, preparation of adjustment proposals, implementation), the numbers of firms assisted, and the funding levels.

Answer. The chart on the following page summarizes the number of firms and amount of assistance provided for each TAAC by fiscal year.

Question. 2b. How much technical assistnce has been provided to individual firms other than through TAACs since fiscal year 1981? Who has provided the assistance, what type, amount, and to how many firms?

Answer. Since FY-1981, no technical assistance has been provided to firms other than through TAACs.

Question. 2c. How much assistance has been granted to each individual TAAC for administrative expenses?

Answer. TAAC administrative expenses for fiscal years 1982-1984 are summarized on the following chart:

TAAC	Fiscal year—		
	1982	1983	1984
New England	$317,800	$297,300	$417,400
New York State	245,000	253,300	292,600
Metro New York	390,000	212,000	249,000
New Jersey	90,000	98,800	106,000
Mid-Atlantic	215,000	190,000	200,000
Southeastern	414,400	351,500	266,500
Great Lakes		384,500	304,300
Mid-West	338,100	328,600	258,800
Mid-America	139,800	111,400	229,600
Rocky Mountain	223,300	411,300	302,000
Morthwest	74,100	186,400	185,000
Western	203,900	222,500	280,300
Total	2,651,400	3,047,600	3.091,500

2a.—NUMBER AND VALUE OF TRADE ADJUSTMENT TECHNICAL ASSISTANCE PROVIDED BY TAACS—FISCAL YEAR 1982 THROUGH JANUARY FISCAL YEAR 1985

TAAC	Fiscal year 1982						Fiscal year 1983					
	Pre-cert petitions		Post-cert diag /adj plan		Post-approval implementation		Pre-cert petitions		Post-cert diag /adj plan		Post-approval implementation	
	No	Value	No	Value	No	Value	No	Value	No	Value	No	Value
New England	41	$16,500	38	$272,100	12	$521,200	87	$48,300	28	$138,200	3	$90,100
New York State	51	15,600	24	205,200	13	462,100	56	12,500	22	143,900	9	342,700
Metro New York	62	33,600	34	243,100	22	92,200	129	44,300	17	122,400	20	466,800
New Jersey	58	12,100	30	136,400	9	93,500	88	16,100	15	88,300	7	179,000
Mid-Atlantic	33	12,700	45	140,800	8	91,200	46	19,300	11	24,200	14	127,900
Southeastern	45	9,500	20	301,900	22	502,700	55	44,900	20	246,900	9	436,700
Great Lakes							12	4,500	6	8,600		
Mid-West	132	43,700	39	211,000	28	423,400	89	45,300	25	217,000	24	329,300
Mid-America	31	17,200	26	130,800	9	102,500	39	28,000	26	99,400	14	196,300
Rocky Mountain	10	38,900	6	48,000	2	4,600	12	17,300	11	66,400	5	10,300
Northwest	25	20,200	18	212,500	8	152,100	22	12,100	10	111,800	2	40,100
Western	72	84,900	58	528,300	29	881,700	109	92,700	71	576,700	31	962,300
Total	560	304,900	338	2,430,100	162	3,327,200	744	385,300	272	1,843,800	138	3,181,500

2a.—NUMBER AND VALUE OF TRADE ADJUSTMENT TECHNICAL ASSISTANCE PROVIDED BY TAACS—FISCAL YEAR 1982 THROUGH JANUARY FISCAL YEAR 1985

TAAC	Fiscal year 1984						Fiscal year 1985					
	Pre-cert. petitions		Post-cert. diag./adj plan		Post-approval implementation		Pre-cert. petitions		Post-cert. diag./adj plan		Post-approval implementation	
	No	Value	No	Value	No	Value	No	Value	No	Value	No	Value
New England	86	$57,900	36	$281,400	15	$236,400	40	$33,200	10	$68,100	4	$25,000
New York State	44	12,500	19	100,100	6	75,500	18	5,100	30	418,100	23	677,100
Metro New York [1]	97	23,600	25	216,400	9	206,300	33	12,800	6	61,100	15	362,500
New Jersey	76	14,300	32	161,300	7	169,000	12	5,000	7	41,000	3	39,400
Mid-Atlantic	63	27,600	19	76,300	17	414,600	10	6,000	15	50,200	11	97,200
Southeastern	50	17,000	44	672,600	9	473,200	6	4,000	26	186,900	25	186,900
Mid-West	62	29,900	29	199,000	25	397,000	19	4,800	20	71,700	9	75,200
Mid-America	62	85,400	40	270,200	22	531,900	32	23,000	24	61,500	28	230,000
Rocky Mountain	23	16,500	14	90,400	6	106,100	4	3,200	21	38,400	7	41,400
Northwest	29	22,700	19	183,800	5	238,400	7	4,100	6	26,800	11	347,900
Western	96	116,800	73	726,500	41	1,212,500	49	58,200	63	242,10	32	119,900
Total	727	442,900	384	3,123,400	167	4,310,500	234	161,100	238	1,319,500	175	2,213,500

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[1] Includes Puerto Rico TAAC.

Question 3. Of the number of petitions filed in each fiscal year since 1981, how many have been denied? Of the number denied each year, how many have received pre-certification technical assistance through TAACs in preparing petitions? Which TAACs supplied this assistance and what was the total funding involved?

Answer. As summarized on the following chart a total of eight firms had petitions denied, seven of these firms were assisted by TAACs for a total value of assistance of $4,919:

	Petitions denied	TAAC assisted	TAAC	Value of assistance
1982	1	1	Mid-Atlantic	$668
1983	3	3	New Jersey—1	
			Mid-Atlantic—1	
			Metro NY—1	1,430
1984	3	2	Mid-West—1	
			Mid-America—1	2,610
1985	1	1	Metro NY—1	211

Question 4a. Of the total number of firms which have been certified since fiscal year 1981, how many have submitted economic adjustment proposals? How many of these proposals have been approved? How many have been implemented?

Answer. Of the 1,107 firms certified from October 1, 1982 to January 31, 1985, 514 firms have submitted adjustment proposals, 477 firms have had adjustment proposals accepted, and 404 firms have received or are receiving trade adjustment assistance to implement accepted recovery strategies.

Question 4b. List the number of firms which have received financial and/or technical assistance by major industry.

Answer. The following chart reflects the number of firms receiving financial and/or technical assistance by major industry since fiscal year 1981:

Major industry (SIC Code)	No. of firms receiving technical assistance [1]	No. of firms receiving financial assistance [1]
Agriculture Products (01 & 02)	25 to 35	1
Food and Kindred Product (20)	35 to 45	
Textile Mill Product (22)	45 to 60	4
Apparel Product (23)	165 to 180	11
Lumber and Wood Product (24)	30 to 35	3
Furniture and Fixtures (25)	20 to 25	1
Paper and Allied Product (26)	3 to 5	
Printing and Publishing (27)	2 to 3	
Chemicals and Allied Product (28)	10 to 14	
Rubber and Misc. Product (30)	24 to 30	1
Leather and Leather Goods (31)	70 to 80	4
Stone Glass, Concrete Product (32)	30 to 35	
Primary Metals (33)	38 to 45	1
Fabricated Metals (34)	100 to 115	5
Machinery, Exec. Machinery (35)	110 to 125	4
Electrical Machinery (36)	60 to 80	4
Transportation Equipment (39)	15 to 20	
Measuring Anal. Instruments (38)	20 to 25	1
Misc. Mfg. Industries (39)	80 to 100	2
Totals	882 to 1,057	42

[1] This represents a range of firms due to difficulty of obtaining precise data.

Question. 4c. How many certified firms have not proceeded further in the program because assistance funds were unavailable? How many firms whose applications have been approved have not received assistance because of lack of funds?

Answer. Twenty-two (22) certified firms have not proceeded further in the program because assistance funds were unavailable. Nine (9) firms whose applications have been approved have not received assistance because of lack of funds.

Question. 4d. To your knowledge, how many firms have been able to obtain private financing as a result of their certification and/or acceptable adjustment proposal?

Answer. A total of 195 to 210 firms have been able to obtain private financing as a result of their certification and/or acceptable adjustment proposal.

Question. 5. Since fiscal year 1981 how many adjustments proposals prepared with TAAC assistance have not been accepted? Which TAACs (thru January FY–85)?

Answer. Since fiscal year 1981, 48 adjustment proposals prepared with TAAC assistance were not accepted. The following chart identifies the TAACs that helped these firms prepare their adjustment proposals:

Number of nonaccepted proposals prepared with TAAC assistance

TAAC	
New England	7
New York State	7
Metro New York	8
New Jersey	8
Mid-Atlantic	1
Southeastern	2
Great Lakes	0
Mid-West	10
Mid-America	2
Rocky Mountain	2
Northwest	1
Western	0
Total	48

Question. 6. What is the average length of time between firm certification and submission of an acceptable adjustment proposal? What is the average length of time between approval of the proposal and delivery of financial assistance (answer for direct loan and loan guarantee assistance separately) and/or of implementing technical assistance?

Answer. The average length of time between firm certification and the submission of an acceptable adjustment proposal is eight months. The average length of time between approval of the proposal and the start of technical assistance to implement the recovery strategy is one month.

Loans and loan guaranties are normally processed on a first come, first serve basis. Often the request for financial assistance includes both direct and guaranteed assistance and the average time for each cannot be established since the funding is dependent on both being available simultaneously. Based upon experience during fiscal year 1982 through June 1984, the average time between acceptance of an adjustment proposal to submission of a financial assistance application is five months, from submission of a financial assistance application to approval of financial asssistance is six months, and from approval of financial assistance to actual closing is an additional three and a half months. It should be noted that after approval of the financial assistance package, actual closing depends to a large extent upon each firm's timeliness in providing the required documents for closing.

Question. 7. List each recipient of industrywide assistance, the amount of assistance, when it was given, and its purpose (i.e the industry assisted and the type of assistance). To what extent have funds been used for export promotion?

Answer. Below is a listing of the industry sector projects awarded under the TAA program:

Apparel (Other Projects)	$4,556,000
Apparel Export Assistance (ITA)	10,979,000
Consumer Electronics	500,000
Cutlery	258,500
Draper Labs (TC2)	2,575,000
Earthenware	185,500
Electronics [1]	250,000
Fisheries	100,000
Footware (Other Projects)	1,179,000
Footwear Center	3,517,300
Footwear Export Assistance [1]	2,169,700
Gear Research	150,000
Handbags	685,000
Handmade Glass	269,600

Hand Tools	70,900
Hardwood Dimensions	150,000
Industrial Fabrics	83,400
Industrial Fasteners	500,000
Jewelry	457,400
Leather Products	175,000
Leather Workers	250,000
Loudspeakers [1]	192,000
Luggage	254,500
Machine Tools [1]	31,000
Machinery Manufacturers	150,000
Mushrooms	286,800
Onion Growers	155,200
Paper Machinery	60,400
Pipe Fittings	10,000
Regional Apparel Contractor Assoc. (4)	1,009,000
Shakes & Shingles	341,000
Shrimp	365,000
Sporting Goods [1]	205,000
Stainless Steel Flatware	500,000
Steel	1,527,000
Steel Founders	192,000
Textile Machinery	253,200
Tooling & Machining	218,300
Uniform Manufacturers	102,000
Vitreous China	173,500
Wire Machinery	25,000
Woolgrowers [1]	442,300
Work Gloves	229,800
Total	35,838,000

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[1] Projects with export promotion focus.

Grantee/cooperator: Institute of Public Administration.

Effective date: September 1, 1981.

Grant/agreement title: Technical, Administrative, and Research Services for the U.S. Apparel Industry.

Project number: 99-26-07104-10 and 99-26-07104-20.

Federal funding: $1,068,793.

Grantee/cooperator share: $334,816.

Purpose of grant/agreement: To focus on management improvements for the small apparel manufacturer and to formulate a policy for TAA to deal with small contractors.

Grantee/cooperator: Atlantic Apparel Contractors Association, Wind Gap, PA 18091.

Effective date: October 1, 1983—September 30, 1984.

Grant/agreement title: Development of Standards Manuals for the Apparel industry in skirts, pants, and blazers.

Project number: 99-26-07166-10.

Federal funding: $75,000.

Grantee/cooperator share: $38,586.

Purpose of grant/agreement: To develop a system of standard time data for each element of operation involved in making blazers, pants, and skirts.

Grantee/cooperator: Philadelphia College of Textiles and Science.

Effective date: September 15, 1978.

Grant/agreement title: Study to Evaluate Strategies for Improving the American Men's Apparel Industry.

Project number: 99-26-09882-10.

Federal funding: $300,000.

Grantee/cooperator share: $12,000.

Purpose of grant/agreement: To evaluate the competitive position in the world market of our men's tailored clothing industry. Will assess the factors that have impacted on this segment of the industry. Project will look at new technology and evaluate industry attitudes.

Grantee/cooperator: National Knitted Outerwear Association.

Effective date: August 1, 1979.

Grant/agreement title: Study to Improve the Efficiency of Post-Knitting Operations.

Project number: 99-26-07053-10.
Federal funding: $45,000.
Grantee/cooperator share: $15,000.
Purpose of grant/agreement: To provide assistance to study the post-knitting operations in sweater and sportswear knitting firms in an effort to define and improve efficiency in the production operations.
Grantee/cooperator: Schiffli Lace Manufacturers Association.
Effective date: September 15, 1979.
Grant/agreement title: Feasibility Study for Improving the Competitiveness of the Domestic Lace Industry.
Project number: 99-26-07071-10.
Federal funding: $20,000.
Grantee/cooperator share: $6,667.
Purpose of grant/agreement: Project will examine new strategies for competing with imported lace. Project will examine new markets for domestic lace, as well as the potential for operator training center for the industry.
Grantee/cooperator: Department of Commerce/ITA Office of Textiles and Apparel (OTEXA).
Effective date: September 20, 1978.
OTEXA grant/agreement title: Export Promotion Program for Textile and Apparel.
TAD project officer: Thomas Heckmann 377-4031.
Contact person: Walter Lenahan.
Project number: Internal Transfer within ITA/TD.
Federal funding: $10,980,300.
Grantee/cooperator share: $0.
Purpose of grant/agreement: Comprehensive program to increase U.S. exports in textiles and apparel.
Grantee/cooperator: American Cutlery Manufacturers Association.
Effective date: September 1, 1979.
Grant/agreement title: U.S. Cutlery Industry Import Impact Adjustment Program.
Project number: 99-26-07054-10.
Federal funding: $258,500.
Grantee/cooperator share: $38,812.
Purpose of grant/agreement: Develop strategies for improving the competitiveness of the domestic cutlery industry with foreign manufactured cutlery goods in both the U.S. and the world markets.
Grantee/cooperator: Northwestern University.
Effective date: October 1, 1978.
Grant/agreement title: The U.S. Consumer Electronic Industry and Foreign Competition.
Project number: 06-26-07002-10.
Federal funding: $500,000.
Grantee/cooperator share: $0.
Purpose of grant/agreement: To identify and evaluate basic policy and strategic action alternatives relating to the current and long term competitive position and capabilities of U.S. industries in the consumer electronics market.
Grantee/cooperator: Institutes of Public Administration (IPA) Washington, D.C. 20036.
Effective date: February 1, 1984—March 31, 1985.
Grant/agreement title: Draper Labs Apparel Automation Project (Fourth Year).
Project number: 99-26-07176-10.
Federal funding: $2,575,000.
Grantee/cooperator share: $2,650,000.
Purpose of grant/agreement: The objective is to automate many of the operations which go into assembling a garment.
Grantee/cooperator: American Ceramic Tableware Council.
Effective date: September 1, 1979.
Grant/agreement title: Trade Adjustment Technical Assistance to the American Earthen Tableware Industry.
Project number: 99-26-07057-10.
Federal funding: $165,455.
Grantee/cooperator share: $75,000.
Purpose of grant/agreement: Study the market forces at work in the U.S. and abroad and gather and synthesize information related to the domestic production of earthen tableware.

Grantee/cooperator: Institute of Public Administration.

Effective date: June 1, 1978.

Grant/agreement title: Technology and Management Services to the Footwear Industry.

Project number: 99-26-09792-10 and 99-26-07074-10.

Federal funding: $1,150,000.

Grantee/cooperator share: $0.

Purpose of grant/agreement: Provide technology and management services to the footwear industry including the following (1) Develop a time-phased management plan for economic technical studies; (2) Develop industry profiles; (3) Develop a technology assessment of computer-aided-design (CAD) in the footwear industry; (4) Develop case studies for the industry; and (5) Perform the groundwork for the American Shoe Center.

Grantee/cooperator: Research Triangle Institute.

Effective date: September 15, 1978.

Grant/agreement title: Technology Assessment and Information Dissemination to the American Footwear Industry.

Project number: 99-26-09881-10 and 99-26-07073-10.

Federal funding: $1,098,284.

Grantee/cooperator share: $0.

Purpose of grant/agreement: Assess the immediate value of potentially applicable manufacturing technologies and facilitate the transfer of these refined technologies to the footwear industry.

Grantee/cooperator: Department of Commerce, Office of Productivity Technology, and Innovation (OPTI).

Effective date: March 1, 1980.

Grant/agreement title: Establishment of the American Shoe Center (ASC).

Project number: 99-26-07085-30 (Transfer of Funds).

Federal funding: $2,000,200.

Grantee/cooperator share: $0.

Purpose of grant/agreement: Funds transferred from TAA to OPTI to provide the first year seed money for the ASC in Philadelphia.

Grantee/cooperator: Department of Commerce/ITA, Office of Export Development.

Effective date: June 28, 1978.

Grant/agreement title: Footwear Export Expansion Program.

Contact person: Fawn Evanson (202) 522-7277.

Project number: Internal ITA Transfer of Funds.

Federal funding: $2,109,603.

Grantee/cooperator share: $0.

Purpose of grant/agreement: To increase domestic footwear exports.

Grantee/cooperator: National Handbag Association (NHA).

Effective date: September 15, 1978.

Agreement title: NHA Industry-Wide Recovery Program.

Project number: 99-26-09992-10, 99-26-07058-10 and 99-26-07103-30.

Federal funding: $680,504.

Grantee/cooperator share: $295,500.

Purpose of grant/agreement: Improve the structure, design, finance, labor management cooperation, manpower, and marketing of the industry. Also to help in the establishment of a National Handbag Marketing Institute.

Grantee/cooperator: Hand Tool Institute, Tarrytown, NY 10591.

Effective date: 4/1/83.

Grant/agreement title: Diagnostic Study of the U.S. Hand Tool Industry.

Project number: 99-26-07149-10.

Federal funding: $70,875.

Grantee/cooperator share: $31,375.

Purpose of grant agreement: To develop an overall adjustment strategy for the industry by preparing a diagnostic analysis to determine by market segment/channels of distribution where sales losses have occurred and to what extent the major 15 hand tool categories have been affected. The project will look at the motivating factors of why consumers switch to imported products by tool type, how customers perceive both foreign and domestic products, and analyze the strengths and weaknesses of the domestic and foreign products themselves. The vulnerability of specific U.S. tools will be analyzed at each distribution stage and consumer preference tests will be conducted at each stage.

Grantee/cooperator: New England Research Application Center/University of Connecticut, Storrs, Connecticut.

Effective date: 9/15/78.

Grant/agreement title: Strategies to Help the U.S. Industrial Fastener Industry Compete with Foreign Competition.

Project number: 99-26-09887-10.

Federal funding: $500,000.

Grantee/cooperator share: 0.

Purpose of grant/agreement: To help the industrial fastener industry compete better with foreign competition through the use of more efficient machinery.

Grantee/cooperator: Manufacturing Jewelers and Silversmiths of America, Inc.

Effective date: September 1, 1980.

Grant/agreement title: An Economic Analysis/Recovery Plan for the Jewelry Industry.

Project number: 99-26-07105-30 and 99-26-07105-31.

Federal funding: $199,985.

Grantee/cooperator share: $69,090.

Purpose of grant/agreement: To develop a comprehensive economic analysis of the industry, which identified, evaluates and recommends strategies and technologies for improving the competitiveness of the industry, as well as the development and implementation of a marketing and export program.

Grantee/cooperator: Luggage and Leather Goods Manufacturers of America, Inc. (LLGMA).

Effective date: October 1, 1983.

Grant/agreement title: Trade Adjustment to the Personal Leather Goods Industry.

Project number: 99-26-07164-30.

Federal funding: $175,000.

Cooperator share: $90,000.

Expected completion date: December 31, 1985.

Purpose of grant/agreement: The objective of this project is to determine the reasons why consumers are turning away from domestic personal leather goods and to aid the domestic manufacturer in mounting an attack on the growing threat of imports. More specifically the LLGMA will contract for studies of the retail market including distribution channels and leather categories affected by imports, as well as research on the price and product marking system and recommendations as to a standard ticketing scheme. Additionally, research on selected foreign markets will be made to determine the potential demand for U.S. produced personal leather goods, including economic indicators, size of market, and tariff and non-tariff barriers.

Grantee/cooperator: Luggage and Leather Goods Manufacturer of America, Inc. (LLGMA).

Effective date: February 16, 1981, September 1, 1981, and October 1, 1983.

Grant/agreement title: Trade Adjustment Assistant to the Luggage and Personal Leather Goods Industry.

Project number: 99-26-07116-10, 99-26-07123-30 and 99-26-07164-30.

Federal funding: $429,463.

Cooperator share: $175,810.

Purpose of grant/agreement: Comprehensive diagnosis of the industries problems and needs, as well as recommendations for recovery.

Grantee/cooperator: National Machine Tool Builders Assoc.

Effective date: September 15, 1984.

Grant/agreement title: Export Feasibility Study and Industry Recovery Assessment of the Machine Tool Industry.

Project number: 99-26-07167-10.

Federal funding: $31,018.

Cooperator share: $12,070.

Purpose of agreement: To help the domestic machine tool industry to become more competitive with imports by sharing in the funding of a export self-help program.

Grantee/cooperator: Research Foundation of State University of New York (SUNY) on behalf of SUNY-Binghamton Albany, New York.

Effective date: March 1, 1984.

Grant/agreement title: New York State Onion Growers Assistance Program.

Project number: 99-26-07184-30.

Federal funding: $155,227.

Cooperator share: $116,973.

Purpose of grant/agreement: To help the New York State Onion Growers to improve their agricultural practices so they can compete more effectively with imported produce. Most of the work program will be undertaken through Cornell University's agriculture school. Major program elements include:

Development and implementation of improved pest and disease control methods;

Marketing assistance for co-operative development, analyzing "sweet sandwich" onion market appeal, and analyzing how improved storage practices could aid marketing efforts;

Improving weed control programs; and

Increasing efficiency of fertilizer use.

Grantee/cooperator: Pulp and Paper Machinery Association.

Effective date: October 15, 1980.

Grant/agreement title: A Feasibility Study of the Pulp and Paper Machinery Manufacturing Industry.

Project number: 99-29-07118-10.

Federal funding: $60,400.

Grantee/cooperator share: $33,300.

Purpose of grant/agreement: The purpose of this grant was to assist the domestic manufacturers by means of a comprehensive review and analysis of this industry and an identification of those areas which offer the highest potential for combatting import competition.

Grantee/cooperator: American Pipe Fittings Association.

Effective date: 8/15/81.

Grant/agreement title: Pipe Fittings Industry Diagnostic Study.

Project number: 99-26-07121-10.

Project funding:

Federal	$9,981
Cooperator-Cash	0
In-Kind	1,720
Total	11,701

Purpose of grant/agreement: The agreement was undertaken to prepare a diagnostic analysis of the American pipe fittings industry including:

A profile of the industry identifying the various problems and challenges facing it and the extent to which imports are a significant problem; and

Opportunities to improve the competitive stature of the domestic industry.

At the end of the project a report was prepared which includes the findings of the diagnostic study.

Grantee/cooperator: Economic Development Council of Puget Sound.

Effective date: June 15, 1980.

Grant/agreement title: A Recovery Plan for the Western Red Cedar (Shakes and Shingles) Industry.

Project number: 99-26-07090-30 and 99-26-07090-31.

Federal funding: $341,000.

Grantee/cooperator share: $129,000.

Purpose of grant/agreement: The purpose of this project is to provide assistance of an industry-wide nature to the Western Red Cedar, Shakes and Shakes and Shingles Industry by means of the development and evaluation of modernization techniques and the search for alternative wood species.

Grantee/Cooperator: Gulf and South Atlantic Fisheries Development Foundation, Inc.

Effective date: September 14, 1979 and September 1, 1982.

Grant/Agreement title: Fishery Industry Diversification and Expansion.

Project number: 99-26-07075-10 and 99-26-08133-30.

Federal funding: $519,900.

Grantee/cooperator share: $30,000.

Purpose of grant/Agreement: Assist the shrimp industry from Virginia through Texas diversify into non-traditional fish products.

Grantee/Cooperator: Sporting Goods Manufacturers Association.

Effective date: September 1, 1982.

Grant/agreement title: Technical Assistance Program for the U.S. Sporting Goods Industry.

Project number: 99-26-07144-10.

Federal funding: $130,000.

Grantee/cooperator share: $60,200.

Purpose of Grant/agreement: Development of the International Marketing Institute of Sports (IMIS) for the purpose of educating U.S. Sporting Goods Manufacturers on all aspects of international marketing and exportation in an effort to promote and facilitate an increase in U.S. exports overseas.

Grantee/cooperator: University of Kansas.

Effective date: September 15, 1978.

Grant/agreement title: Evaluate Strategies for Improving the Competitiveness of the Stainless Steel Flatware Industry in the World Market.

Project number: 99-26-09898-10.

Federal funding: $500,000.

Grantee/cooperator share: $0.

Purpose of grant/agreement: Access resources, identify potential alternate products, and evaluate strategies for making the strainless steel flatware industry more competitive in the world market.

Grantee/cooperator: Lehigh University, Bethelehem, Pennsylvania.

Effective date: 9/15/78.

Grant/agreement title: Potential for Alleviation of the Adverse Trade-Impact on the U.S. Steel Industry.

Project number: 99-26-09886-10.

Federal funding: $999,000.

Grantee cooperator share: $0.

Purpose of grant/agreement: The purpose of this project was to investigate the long-term solutions to improving the U.S. Steel industry's share in the world marketplace.

Grantee/cooperator: Steel Founders' Society of America, Des Plaines, Illinois 60016.

Effective dates: January 1, 1985—January 31, 1986.

Grant/agreement: Reduction of Non-Metallic Inclusions in Steel Castings.

Project number: 99-26-07198-30.

Federal funding: $192,045.

Grantee/cooperator share:

Cash	$188,625
In-Kind	135,075
Total	323,700

Total project cost: $515,745

Purpose of grant/Agreement: This project is intended to develop steel casting processing and inspection methodologies to eliminate or substantially reduce surface and subsurface non-metallic inclusions. Major work elements include:

Identification of major sources of non-metallic inclusions;

Analysis of ladle practices and ways to improve them;

Development of methods to limit inclusion contribution of molding aggregates and binders.

Development of improved reoxidation product practices;

Assessment of the value of ceramic filters in reducing inclusions; and

Utilization of the data developed in the previous steps to design a mold and pouring practice that will produce commercial demonstration casting acceptable for high-speed machining lines.

Grantee/cooperator: American Textile Machinery Association.

Effective date: September 1, 1983.

Grant/agreement title: Development of a High-Tech Center for the Textile and Associated Industries.

Project number: 99-26-07170-10.

Federal funding: $60,448.

Cooperator/grantee share: $87,000.

Purpose of grant/agreement: Establish long-term approaches to assist the textile machinery industry attain a greater world market share by developing a high technology institute for the textile and apparal machinery industries.

Grantee/cooperator: Footwear Industries of America (FIA), Philadelphia, PA 19104.

Effective date: 9/1/81.

Grant/agreement title: A Program to Accelerate the Application of Advanced Technologies to the Footwear Industry.

Project number: 99-26-07124-10.

Federal funding: $334,132.

Grantee/cooperator share: $145,000.

Purpose of grant/agreement: To improve the competitive position of the domestic footwear industry in relation to imported products. The program will examine what technologies are being used in the domestic industry, how effectively they are being used, what the foreign manufacturers are using, what technologies can best aid the domestic industry, and how to convince domestic technology suppliers to invest in footwear manufacturing equipment.

Grantee/cooperator: University of Southern Maine.

Effective date: April 1, 1982.

Grant/agreement title: Establish a Business Plan for a Cooperative Pattern Grading Computer Service Bureau.

Project number: 99-26-07125-10.

Federal funding: $33,381.

Grantee/cooperator share: $11,127.

Purpose of grant/agreement: Write business plan for regional CAD/CAM pattern grading service bureau in Maine to assist ten Maine footwear firms respond to style changes.

Grantee/cooperator: New England Fisheries Steering Committee, Inc., New Bedford, Massachusetts.

Effective date: 9/30/78.

Grant/agreement title: New England Fishing Educational Workshop Program.

Project number: 99-26-09995-10.

Federal funding: $100,000.

Grantee/cooperator share: $33,670.

Purpose of grant/agreement: To assist individuals and firms within the trade-impacted segment of the New England fishing industry, through a series of workshops and seminars. These seminars and workshops focused on technological/entrepreneurial adaptations that could help the industry be more competitive with foreign competition.

Grantee/cooperator: American Restaurant China Council, Inc. (ARCC).

Effective date: September 1, 1979.

Grant/agreement title: Trade adjustment assistance to the American Vitreous China Industry.

Project number: 99-26-07056-10.

Federal funding: $173,500.

Grantee/cooperator share: $73,600.

Purpose of grant/agreement: Study the market forces at work in the U.S. and abroad and gather and synthesize information related to the domestic production of vitreous china.

Grantee/cooperator: Wire Machinery Builders Association, Falls Church, VA 22042.

Effective date: July 15, 1984.

Grant/agreement title: Diagnostic Assessment and Market Dev. and Analysis of the U.S. Wire Machinery Industry.

Project number: 99-26-07190-30.

Federal funding: $25,773.

Grantee/cooperator share: $21,000.

Purpose of grant/agreement: To develop an industry profile of the U.S. industry. This profile will also address the relative competitive position of this industry vis-a-vis the foreign manufacturers.

Grantee/cooperator: National Wool Growers Association, Inc. (NWGA).

Effective dates: July 1, 1983 and September 15, 1983.

Grant/agreement title: Trade Adjustment Assistance to the Lamb and Wool Industry.

Project numbers: 99-26-07154-30 and 99-26-07154-31.

Federal funding: $442,291.

Grantee/cooperator share: $158,180.

Expected completion date: January 31, 1985 and July 31, 1985, respectively.

Purpose of grant/agreement: To determine the export potential for U.S. produced lamb meat and the impact of increased export of lamb meat on its domestic price, and to develop an export marketing strategy and guidelines to be implemented by the NWGA and other U.S. lamb meat producers.

To conduct a diagnostic analysis focusing on the shearing, grading preparation and packaging of wool clip, and to develop a standard classification system for wool clip, an export marketing feasibility study and international strategy, and an educational training program to inform producers of the project findings and recommendations.

Grantee/cooperator: Society for Glass Science and Practices, Inc., Clarksburg, West Virginia.

Effective date: 9/1/80.

Grant/agreement title: Trade Adjustment Technical Assistance to the U.S. Handmade Glass Industry.

Project number: 99-26-07106-30.

Federal funding: $269,600.

Grantee/cooperator share: $90,000.

Purpose of grant/agreement: To provide assistance, on an industry-wide basis to U.S. handmade glass firms with an eye toward making recommendations that would enable domestic manufacturers to become more competitive with their foreign counterparts:

Grantee/cooperator: American Textile Machinery Association (ATMA), Falls Church, VA 22042.

Effective date: July 15, 1983.

Grant/agreement title: An international Study of Product Liability Costs and Systems for Fine Domestic Machinery Industries.

Project number: 99-26-07151-10.

Federal funding: $150,000.

Grantee/cooperator share: $44,000.

Purpose of grant/agreement: This project identified primarily non-legislative approaches to be implemented by U.S. machinery manufacturers in the textile machinery, food processing and supplies machinery, packaging machinery, pulp and paper machinery and wire machinery industries in order to reduce product liability costs and thus increasing their competitive position. This project's objectives were accomplished through gathering and analyzing information related to the issues of product liability in an effort to determine the impact of these costs and exposure on these five industries. Once this was accomplished, and analysis of the European and Japanese systems will be undertaken to identify different approaches utilized that are and the are not a function of the different legal systems. Further analysis was undertaken to determine what approaches successfully utilized by foreign manufacturers could be implemented by U.S. manufacturers.

Grantee/cooperator: Manufacturing Jewelers & Silversmiths of America, Inc. (MJSA).

Effective date: September 1, 1984.

Grant/agreement title: Trade Adjustments—Jewelry Industry Product Diversification.

Project number: 99-26-07197-10.

Federal funding: $50,000.

Grantee/cooperator share: $33,555.

Expected completion date: August 31, 1985.

Purpose of grant/agreement: Phase I of a project to identify and promote jewelry diversification subcontracting opportunities in the high tech, electronics and other compatible industries.

Grantee/cooperator: National Shoe Retailers Association, New York, New York.

Effective date: 9/1/79.

Grant/agreement title: Footwear Manufacturers and Retail Seminars.

Project number: 99-26-070.

Federal funding: $37,885.

Grantee/cooperative share: $12,650.

Purpose of grant/agreement: The purpose of this project is to improve the coordination among footwear manufacturers and retailers, with concentration on the needs of certified footwear firms. This will be accomplished through a series of seminars attended by both manufacturers and retailers.

Grantee/cooperators: Georgia Tech Research Institute, Atlanta, Georgia 30332.

Effective date: October 1, 1983—January 31, 1985.

Grant/agreement title: Development of an Automated Trouser Front Pocket Assembly Machine.

Project number: 99-26-07169-30.

Project funding:

	FY 1983	Prior
Federal	$196,077	$162,258
Cooperator: Cash	26,350	0

Purpose of grant/agreements: Georgia Tech continued work with Automatech Industries, a South Carolina machinery manufacturer, and numerous apparel manufacturing firms to develop an automated trouser front pocket assembly machine. This is the second year of funding for this project. Major elements of the project for this year include:

Adaptation of an existing fabric separation device (the "Slicker-Picker") to a feeding machine so that a single ply of fabric can be selected and carried to the next position;

Development of a pattern recognition/orientation system to align parts so their position and orientation is exact;

Design of an automatic combining system to place two already oriented pieces in the proper relationship for joining;

Modification of the existing automated sewing station to accept the automatically selected, oriented and combined parts and join them; and

Devising a stacking system that will allow each finished piece to be placed in an arrangement for each selection at future operation stations.

This program involves substantial involvement by apparel firms in the development, testing, and modification of the system. Included in this involvement is prototype testing in real-world apparel assembly plants.

Grantee/cooperator: Work Glove Manufacturers Association Grayslake, IL 60030.

Effective date: September 15, 1980.

Grant/agreement title: Comprehensive Marketing, Technology, and Management Research Study for the U.S. Work Glove industry.

Federal funding: $219,900.

Grantee/cooperator share: $73,000.

Purpose of grant/agreement: To help the domestic glove manufacturers fight import competition by reducing costs and expanding markets. The project will attempt to win back some of its lost market share from the lower-wage nations while at the same time try to lower costs and improve quality. The project will concentrate on improving domestic product standards, improving cost accounting standards, reviewing the latest technology available to the industry, and investigating new export markets.

Grantee/cooperator: Sporting Goods Manufacturers Association (SGMA), 2009 Castlewood Drive, North Palm Beach, Florida 33408.

Effective date: September 1, 1984.

Grant/agreement: Development and Consolidation of International Marketing Information for the Sporting Goods Industry.

Project number: 99-26-07191-30.

Federal funding: $75,000.

Grantee/cooperator share: $70,000.

Purpose of grant/agreement: The objective of this project is to increase the domestic sporting goods manufacturers' knowledge of the world marketplace and reduce the uncertainties associated with exporting. In order to achieve this, this project will develop a world-wide guide to sporting goods markets which will ensure that approximately 80 percent of the worlds' (except for the U.S.) demand for sporting goods is identified. This will contain information that will allow a prospective exporter to readily determine demand for this product in a certain country. Surveys of approximately five "high-demand" countries will be developed which will contain information such as available export-related resources, appropriate demographics, and a demand-supply profile of sporting goods product. Audio-visual material summarizing information and other services available to current and future exporters will also be developed.

Grantee/cooperator: Gear Research Institute; Naperville, Illinois.

Effective date: January 1, 1984–June 30, 1985.

Grant/Agreement title: Data Base of Critical Technical Information for Austempered Ductile Iron.

Project number: 99-26-07177-30.

Federal funding: $150,000.

Grantee/cooperator share: $282,500.

Purpose of grant/agreement: To develop a data base about austempered ductile iron. The work program will concentrate on two key areas; the Part A (metallurgical) investigations will concentrate on heat treat and microstructure studies while the Part B (design criteria) effort will focus on mechanical testing for fatigue properties, noise attenuation characteristics, and scuffing resistance.

Grantee/cooperator: National Association of Uniform Manufacturers and Distributors (NAUMD) New York, NY 10036. Represents 140 manufacturers and 130 distributors of uniforms.

Effective date: September 1, 1984–August 31, 1985.

Grant/Agreement title: Analysis of the Potential for Horizontal Market Expansion and Assessment of the Applicability of Current Technology in the iundustry.

Project number: 99-26-07195-10.

Federal funding: $102,000.

Cooperator share: $76,500.

Purpose of agreement: To help domestic uniform manufacturers become more competitive and expand the use of uniforms in non-traditional job sectors such as real estate salespersons.

Grantee/cooperator: National Tooling and Machining Foundation, Fort Washington, MD 207[illegible].

Effective date: October 1, 1983–June 15, 1985.

Grant/Agreement title: Development of a National Quality Control Program for United States Tooling and Machining Companies.

Project fundings:

Federal	$218,350
Cooperator: Cash	52,560
In Kind	84,109
Total	355,019

Purpose of grant/agreement: To develop quality assurance programs for the tooling and machining industry.

Grantee/cooperator: American Textile Machinery Association.

Effective date: 9/1/79.

Grant/Agreement title: Adjustment Programs—International Market Opportunities Analysis.

Project number: 99-26-07052-10, 99-26-07111-10.

Federal funding: $192,750.

Grantee/cooperator share: $251,580.

Purpose of Grant/Agreement: The purpose of this grant is intended to review and evaluate the current state of technology worldwide, the current and potentially useful marketing strategies that may be used domestically and analyze potential domestic/international marketplace to provide sales opportunities for the industry.

Receipients: New England Apparel Mfg. Assn. (NEAMA); Southern California Apparel Contractors (SACA); and Southern Apparel Contractors Assn. (SCAC).

Regions: Southeastern New England; Southern California/Los Angeles; and Southeastern U.S.

Funding: $434,470—4 years; $349,100—1 year; and $110,000—2 years.

Project Thrust: Re-engineering and training; training, seminars and re/engineering; and training and limited re-engineering.

Synopsis of all three programs: OTAA has funded these three regional apparel associations over the last four years to assist the local apparel contractors in competing more effectively with offshore production. The NEAMA project was set up by OTAA in 1979 to provide engineering and management assistance.

Grantee/cooperator: American Mushroom Institute (AMI).

Effective date: July 1, 1979 and July 1, 1983.

Grant/Agreement title: TAA to the Domestic Mushroom Industry and New Post-Harvest handling Techniques for Fresh Mushrooms.

Project numbers: 99-26-07055-10 and 99-26-07158-10.

Federal funding: $285,827.

Grantee/cooperator share: $88,916.

Purpose of grant/agreement: The first project explored new marketing approaches and new technologies available to the mushroom industry. The second project explored methods to treat and handle fresh mushrooms.

Grantee/cooperators: Georgia Tech Research Institute, Atlanta, Georgia 30332.

Effective date: October 1, 1983–January 31, 1985.

Grant/agreement title: Development of an Automated Trouser Front Pocket Assembly Machine.

Project numbers: 99-26-07169-30.

Project funding:

	FY 1983	Prior
Federal	$196,077	$162,258
Cooperator: Cash	26,350	0

Purpose of grant/agreements: Georgia Tech continued work with Automatech Industries, a South Carolina machinery manufacturer, and other apparel manufacturing firms to develop an automated trouser front pocket assembly machine. This is the second year of funding for this project.

Grantee/cooperator: Leathergoods, Plastics, Handbags and Novelty Workers Union, Local 1—AFL-CIO.

Effective date: 2/1/84.

Grant/agreement title: Development & Implementation of a Two-Part Educational Program for the Handbag & Personal Leather Goods Industry.

Project number: 99-26-07180-10.

Federal funding: $250,000.

Grantee/cooperator share: $335,294.

Purpose of grant agreement: This project will develop and implement an educational training program to be administered under the auspices of the Fashion Institute of Technology (FIT). The program will focus on upgrading the skill levels of the current workforce and development of an AAS Program in Leather Goods Accessory and Design and Production.

Grantee/cooperator: Industrial Fabrics Association International (IFAI), St. Paul, MN 55101. Represents over 1700 fabric suppliers and manufacturers; comprised of 20 divisions.

Effective date: August 1, 1984–July 31, 1985.

Grant/agreement title: Diagnostic Study and Assessment of the U.S. Tent, Backpack and Sleeping Bag segments of the Industrial Fabrics Industry.

Federal funding: $83,450.

Grantee/cooperator share: $46,100.

Purpose of agreement: To assist domestic camping products manufacturers in assessing their long term chances for survival and growth and to focus on new opportunities.

Grantee/cooperator: Hardwood Dimension Manufacturers Association, Marrietta, Georgia 30047.

Effective date: September 15, 1983.

Grant/agreement: Trade Adjustment Assistance to the Hardwood Dimension Industry.

Project number: 99-26-07165-30.

Federal funding: $150,000.

Grantee/cooperator share: $76,004.

Purpose of grant/agreement: The objective of this project was to assist the domestic hardwood dimension industry in responding to increased competition from imported furniture and dimension parts by the development of a comprehensive diagnostic analysis of the industry, an improved system of communication within the industry, an analysis of current marketing strategies costing methods, utilization of raw materials, machinery and labor, and an analysis of new technology and processes available or in development stages for the industry.

Grantee/cooperator: American Electronics Association (AEA), Palo Alto, California.

Effective date: May 1, 1984-April 30, 1985.

Grant/agreement: American Electronic Industry Representative Office in Japan.

Project number: 99-26-07183-30.

Federal funding: 250,000.

Grantee/cooperator share:

Cash	$282,366
In-kind	59,250
Total	342,116

Total project cost: $592,116.

Purpose of grant/agreement: To open an office in Japan to represent the American electronics industry to work with Japanese private and public officials in an effort to improve American firms' access to the Japanese marketplace and to develop a system of contacts that will help small to medium sized American electronics firms penetrate the Japanese markets when they are opened. Other office activities will include information exchange between the Japanese and American electronics industries and establishing an intern program for American electrical engineering students with Japanese electronics firms.

Grantee/cooperator: Footwear Industries of America, Philadelphia, Pennsylvania 19104.

Effective date: 10/1/83.

Grant/agreement title: Consumer Perceptions of Domestic and Imported Footwear.

Project number: 99-26-07171-10.

Federal funding:

Federal	$33,000
Cooperator cash	0
In-kind	53,000
Total	86,000

Purpose of grant/agreement: To help American footwear producers better understand consumer views on the relative merits of American and imported footwear—the Footwear Industries of America.

Grantee/cooperator: Sporting Goods Manufacturers Association (SGMA), 2009 Castlewood Drive, North Palm Beach, Florida 33408.

Effective date: September 1, 1984.

Grant/agreement: Development and Consolidation of International Marketing Information for the Sporting Goods Industry.

Project number: 99-26-07191-30.

Federal funding: $75,000.

Grantee/cooperator share: $70,000.

Purpose of grant/agreement: To increase the domestic sporting goods manufacturers' knowledge of the world marketplace and reduce the uncertainties associated with exporting.

Grantee/cooperator: American Loudspeaker Manufacturers Association (ALMA), Arlington Heights, Illinois.

Effective date: 4/15/82.

Grant/agreement title: Technical Assistance Program for the United States Loudspeaker Industry.

Project number: 99-26-07129-10.

Project funding:

Federal	$192,000
Cooperator cash	0
In-kind	85,680
Total	277,680

Purpose of grant/agreement: To help the American loudspeaker industry compete more effectively with imports through a diversified program of technical assistance. These efforts were directed at four main areas:

Reduction of unnecessary product differentiation through the development and formulation of standards.

Assessment of the potential benefits of new technologies/products for the American loudspeaker industry.

Analysis of both domestic and international loudspeaker markets and their potential for American manufacturers, and

Examination of alternate management tools in an effort to improve competitive posture of the domestic loudspeaker industry.

Question 8a. Compare financial assistance under the EDA and the ITA each year since the beginning of the program to the present, i.e., the total number of firms assisted by EDA and by ITA, and of this number the number awaiting closing, the number current, the number past due, the number in liquidation, and the number liquidated. Also show each of these comparisions in terms of the dollar amounts of assistance, separately for direct loans and loan guarantees.

Answer. The following chart identifies the number of firms with approved financial assistance under the Trade Act of 1974 by fiscal year of approval and broken down by dollar amounts for direct loans and loan guarantees:

Fiscal year of approval	Number of firms	Direct loans	Guaranteed loans (face)	Total dollars approved
APPROVALS MADE BY EDA				
Fiscal year:				
1976	9	$6.4	$3.7	$10.1
1976 TQ	2	2.8	.5	3.3
1977	17	12.3	5.5	17.8
1978	69	40.9	33.6	74.2
1979	82	55.5	38.7	94.2

Fiscal year of approval	Number of firms	Direct loans	Guaranteed loans (face)	Total dollars approved
APPROVALS MADE BY EDA				
1980	67	42.0	30.1	72.1
1981	49	27.9	21.9	49.8
Total EDA	295	187.8	134.0	321.5
APPROVALS MADE BY ITA				
Fiscal year				
1982	12	2.5	16.8	19.3
1983	16	7.9	7.9	15.8
1984	13	7.5	16.4	23.9
1985 to date	2	.4	3.0	3.4
Total ITA	43	18.3	44.1	62.4

Sixteen firms are currently awaiting closing of approved ITA Trade Act loans and loan guarantees.

We have requested EDA to supply information on the breakdowns for Trade Adjustment Assistance projects prior to FY 1982. This information will be ready in sufficient time for the hearing. The chart on the next page identifies the number of loans, current, past due, in liquidation, and liquidated, and the related dollar amounts for all direct and guaranteed loans in the ITA loan portfolio:

STATUS OF ITA FINANCIAL ASSISTANCE PORTFOLIO AS OF FEBRUARY 12, 1985

[Dollars in millions]

Status	Assisted	Direct dollars	Guaranteed dollars	Approved dollars	Percent of total approvals	
					Firms	Dollars
Not closed	16	$8.0	$16.2	$24.2	37	38.8
Current	21	7.8	21.9	29.7	49	47.6
Past due	2	.9		.9	5	1.4
In liquidation	4	106	6.0	7.6	9	12.2
Written off						
Totals	43	[1] 18.3	[2] 44.1	[3] 62.4	100	100

[1] Or 31.6 percent of approved dollars.

[2] Or 68.4 percent of approved dollars.

[3] 100 percent.

Note.—90 percent of the Guaranteed dollar amount would equal the maximum Government exposure on loan guarantees.

Question 8b. How many firms which received financial assistance have also received technical assistance in preparing and/or implementing an adjustment proposal?

Answer. Out of 43 Trade act loans approved since fiscal year 1981, 40 firms have also received technical assistance.

Question 8c. How many firms have received the maximum amount of direct loan ($1 million) and/or loan guarantee ($3 million) assistance?

Answer. Six firms received the $1 million maximum for direct loans, nine firms received the $3 million maximum for guaranteed loans, and an additional three firms received the maximum $4 million for a combination direct and guaranteed loan.

Question 9a. What is the current interest rate charged on direct loans?

Answer. For the period January 15, 1984, to February 14, 1985, the interest rate was and is 12¾ percent.

Interest rates for direct loans are determined by ITA monthly, based on information from the Treasury Department on the average market yield on U.S. securities of comparable maturity, plus a surcharge to cover administrative costs and probable losses under the program.

Question 9b. What is the current amount added to cover administrative expenses and probable losses?

Answer. The surcharge included in the current interest rate is 1¼ percent.

Question 9c. What is the current interest rate charged on loan guarantees, and how does it compare with the maximum rate that a participating financial institution may establish on an SBA loan guarantee?

Answer. Interest rates for loan guarantees are established by the private sector and normally range between prime and 2¾ percent over the prime rate. For guaranteed loans the allowable prime rate is based on money market rates as published in the Wall Street Journal.

Although their programs are not directly comparable, SBA's maximum interest rates, and the FmHA allowable interest rates, are referred to by OTAA in making the legally required determination that "the interest rate is not excessive when compared with other loans bearing Federal guarantees and subject to similar terms and conditions." The SBA interest rate for loans of under seven years duration is 2½ percent over prime, and for loans over seven years is 2¾ percent over prime.

Question 9d. When and in what amount is a fee charged a lender making a loan guarantee?

Answer. ITA has not, in the past, established a guaranty fee. However, OMB Circular A-70 dated August 24, 1984, requires that a fee be charged. The Department has commenced efforts through analysis of various data to determine policies and procedures for setting up guarantee fees. OTAA has retained the services on a financial consultant to do these calculations.

Question 10a. Section 252(a) of the Trade Act of 1974 gives a 2-year deadline after certification for a firm to file an application for adjustment assistance. It specifically requires such application to include a proposal for the firm's economic adjustment. Section 252(c) requires a determination as soon as possible, in no event later than 60 days after the application is filed. How many of these statutory requirements are met under current regulations which allow an extra six months for submission of detailed documentation after approval of the plan, followed by up to 60 days for a final decision one the firm's submission of detailed documentation after approval of the plan, followed by up to 60 days for a final decision on the firm's request for assistance? Why is this extra period provided?

Answer. The vast majority of firms that submit adjustment proposals and applications for technical assistance do so within two years after certification. Less than 5 percent of the firms applying for technical assistance to implement an accepted adjustment proposal require the extra six months for submission of additional documentation for approval of the proposal.

In a similar vein, most firms applying for financial assistance do so within two years after certification. Less than 10 percent of firms applying for financial assistance require the extra six months. Furthermore, many firm's adjustment proposals, or the conditions of OTAA's approval of the adjustment proposal, require technical assistance provided tasks to be completed before the firm can apply for the Trade Act loan. In many cases technical assistance provided before financial assistance allows the opportunity to test the feasibility of a firm's strategy before any substantial financial investment is made in the firm.

The extra six month period has been provided to permit firms that need technical assistance before financial assistance an opportunity to apply for a loan after technical assistance tasks are completed. However, some firms that have delayed the development of their adjustment proposal until the eleventh hour (often for legitimate reasons such as a management change or working out of bankruptcy) have benefitted by this provision.

(Attached is a legal interpretation of sections 252 and 253 of the Trade Act which relates to this question.)

ITA INTERPRETATION OF SECTIONS 252 AND 253 OF THE TRADE ACT OF 1974

Sections 252 and 253 of the Trade Act of 1974 read, in part, as follows:

SEC. 252. APPROVAL OF ADJUSTMENT PROPOSALS. (19 U.S.C. 2342)

(a) A firm certified under section 251 as eligible to apply for adjustment assistance may, at any time within two years after the date of such certification, files an application with the Secretary for adjustment assistance under this chapter. Such application shall include a proposal for the economic adjustment of such firm.

(b)(1) Adjustment assistance under this chapter consists of technical assistance and financial assistance, which may be furnished singly or in combination. The Secretary shall approve a firm's application for adjustment assistance only if he determines—

(A) that the firm has no reasonable access to financing through the private capital market, and

(B) that the firm's adjustment proposal—

(i) is reasonably calculated materially to contribute to the economic adjustment of the firm,

(ii) gives adequate consideration to the interests of the workers of such firm, and

(iii) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

(2) The Secretary shall make a determination as soon as possible after the date on which an application is filed under this section, but in no event later than 60 days after such date.

(c) In order to assist a firm which has been certified s eligible to apply for adjustment assistance under this chapter in preparing a viable adjustment proposal, the Secretary may furnish technical assistance to such firm.

SEC. 253. TECHNICAL ASSISTANCE. (19 U.S.C. 2343)

(a) The Secretary may provide a firm, on terms and conditions as the Secretary determines to be appropriate, with such technical assistance as in his judgment will carry out the purposes of this chapter with respect to the firm. The technical assistance furnished under this chapter may consist of one or more of the following:

(1) Assistance to a firm in preparing its petition for certification of eligibility under section 251 of this chapter.

(2) Assistance to a certified firm in developing a proposal for its economic adjustment.

(3) Assistance to a certified firm in the implementation of such a proposal.

The following problems have arisen in the interpretation of the foregoing provisions:

1. A firm must be certified under Section 251 in order to apply for adjustment assistance. Adjustment Assistance consists of technical and financial assistance. Therefore, a question is raised as to how technical assistance can be provided under Section 253(a)(1).

2. An application for adjustment assistance must include a proposal for the economic adjustment of the firm applying for adjustment assistance. Adjustment assistance consists of technical and financial assistance. Therefore, a question is raised as to how technical assistance can be provided under Section 253(a)(2). (Section 252(c) addresses the preparation but not the development of an adjustment proposal.)

3. There is uncertainty as to the amount of information a firm applying for adjustment assistance is required to submit within two years after the date of its certification under Section 252(a).

4. There is uncertainty as to what determination must be made within 60 days under Section 252(b)(2).

5. There is uncertainty as to how adjustment assistance can be furnished in combination under Section 252(b)(1) in situations in which one phase of appropriate technical or financial assistance cannot be determined until a former phase has been completed. This question is particularly important where the need for later technical or financial assistance is dependent upon the results of a market analysis, production study or other forms of technical assistance provided initially.

The following statements concerning the two-year and 60-day requirements of Section 252 are contained in the legislative reports on the Trade Act:

* * * Under the Committee bill, the Secretary of Commerce would be required to reach his decision on a firm's adjustment assistance proposal no later than sixty days after receiving the firm's application. * * *

S. Rep. No. 1298, 93d Cong., 2d Sess. 28 (1974).

* * * The Secretary of Commerce is required to reach his decision on a firm's adjustment assistance proposal no later than sixty days after receiving the firm's application. * * *

Staffs of Senate Committee on Finance and House Committee on Ways and Means, 93d Cong., 2d Sess., Summary of the Provisions of H.R. 10710 8 (Comm. Print (1974).

* * * It is not intended that the two-year time limit would preclude a firm from revising or amending its initial proposal after the expiration of the two-year period. * * *

H.R. Rep. No. 571, 93d Cong., 1st Sess. 61 (1973).

S. Rep. No. 1298, 93d Cong., 2d Sess. 146 (1974).

ITA has developed a procedure which deals with the above questions and which is intended to provide a consistent interpretation of the Trade Act and its legislative history. This procedure has been incorporated into the regulations recently proposed and ITA believes that it provides for adjustment assistance in a manner most beneficial to the firms needing assistance. The procedure can be summarized as follows:

1. ITA will provide technical assistance to a firm to assist the firm in preparing its petition for certification.
2. After a firm is certified, ITA will provide technical assistance to assist the firm in developing and preparing its adjustment proposal provided the adjustment proposal can be submitted within two years after the date of the firm's certification.
3. An acceptable adjustment proposal must be submitted by the firm within two years after the date of the firm's certification. The adjustment proposal and any supporting material must contain sufficient information to enable ITA to make the determinations set forth in Section 252(b) and a description of any financial assistance or technical assistance requested to implement the adjustment proposal. If an adjustment proposal submitted does not contain sufficient information, the firm is so advised and permitted to submit any additional information needed provided that it can be submitted within the two-year period. Minor amendments to an approved adjustment proposal may be permitted after the expiration of the two-year period if determined reasonable and necessary by ITA.
4. The determinations by ITA required under Section 252(b) must be made not later than 60 days after the acceptable adjustment proposal is submitted. The firm is promptly notified of the approval or rejection of its adjustment proposal.
5. Within six months after its adjustment proposal has been approved or at such later time as ITA determines to be appropriate, the firm may submit any further documentation necessary in connection with its request for financial or technical assistance consistent with its approved adjustment proposal.
6. A decision by ITA on the firm's request for financial or technical assistance is made within 60 days after submission of the necessary documentation by the firm.

The above procedure places primary emphasis on a firm's adjustment proposal and requires that the adjustment proposal be approved before any financial assistance or implementation technical assistance is considered. The procedure was instituted because experience in the program made it obvious that the development of an adjustment proposal must precede the detailed development of a specific adjustment assistance request. If an acceptable adjustment proposal cannot be developed, there is no basis for requiring a firm to prepare and submit the additional documentation that is required for further adjustment assistance. In addition, until an adjustment proposal has been approved, it is not possible to determine all of the other information that will be needed to support a firm's request for further adjustment assistance. Therefore, because of the necessity of requiring a firm and ITA to concentrate on the adjustment proposal initially, the two-year and 60-day requirements of Section 252 are applied to the adjustment proposal. In order to expedite specific adjustment assistance needed to implement an approved adjustment proposal, ITA by regulation places limits on the submission time for additional documentation for such assistance and on the time for decision by ITA on the specific assistance.

Question 10b. Would delivery of assistance be expedited and the prospects for firm adjustment rather than default increased if this documentation were supplied as part of the application and granted upon approval of the plan? Isn't two years sufficient for this purpose?

Answer. The two-year period is sufficient for firms to complete the adjustment proposal, as well as the application and documentation for implementing technical assistance. However, it is not practical to combine the adjustment proposal and application documentation together in one process for technical assistance. Implementing technical assistance usually includes consulting contracts. Time consuming efforts to receive and review competitive consultant proposals would be wasted, as well as be unfair to the consultants submitting proposals if the firm's adjustment strategy was found to be unacceptable. Some 95 percent of firms submitting adjustment proposals seek only technical assistance and no financial assistance.

The two-year period is also sufficient for firms to complete applications and documentation for Trade Act financial assistance. However, firms require a separate problem identification (diagnostic review) and/or planning (adjustment proposal) prior to developing the documentation for the loan application to avoid looking at problems too narrowly. Furthermore, in view of the effort and expense of preparing the financial assistance documentation, it is not appropriate to combine the adjustment proposal and the application for Trade Act loans, unless OTAA has previously reviewed and provided feedback to the firm on its recovery strategy.

(Attached is a legal interpretation of sections 252 and 253 of the Trade Act which relates to this question.)

Question 11. To what extent, and under what circumstances, are personal resources of major stockholders (personal guarantees) or resources of related firms required as a condition for approval of an adjustment proposal? What is the rationale for this policy?

In reviewing a firm's adjustment proposal, the resources of the firm, related firms, as well as personal resources of owners/major stockholders are considered in reviewing adjustment proposals. The rationale for considering the resources of the firm and related firms in reviewing adjustment proposals is to comply with legislative requirements that the firm is making maximum use of its own resources. If the firm has substantial resources these should be used and invested in the firm's recovery. Furthermore, OTAA wants to insure that a related firm is not seeking to profit at the expense of a certified firm.

In reviewing a Trade Act loan application, OTAA carefully considers firm, personal and related resources. Furthermore, since it must determine that the requested funds are not available from the applicant firm's own resources and the application must meet other OTAA guidelines. OTAA frequently requires that related firms contribute their assets as collateral enhancement (i.e., where the facilities are titled to another corporation) and requires corporate guarantees from closely related companies.

OTAA also requires personal guarantees from major shareholders for Trade Act loans because: (1) they evidence the commitment of key owners/managers to stay with the project; (2) they demonstrate confidence in the project by individuals with large financed interests; (3) they have been a recommended requirement of both the Government Accounting Office and Office of Inspector General; (4) they provide additional collateral for the loan; and (5) insistence on some form of personal guaranty establishes a clear and consistent policy for all projects. The extent (but not the complete elimination) of such guarantees may be negotiated based on the size of loan, percent ownership, and equity factors.

Question 12. How many staff currently administer each aspect of the program i.e., certification, technical assistance, financial assistance? How do these levels compare with fiscal year 1984?

Answer. The following chart compares the number of staff that administer each aspect of the program during fiscal year 1984 and as of January 31, 1985.

	Number of staff on-board	
	Fiscal year 1984	January 1985 [1]
Certification	9	8
Technical Assistance	7	8
Financial Assistance	11	7
Total	27	23

[1] Does not include co-op interns or part-time employees. Certification has a stay-in-school student, Technical Assistance has one co-op student and Financial Assistance has one co-op student and one part-time stay-in-school student.

Chairman GIBBONS. Our next witness is the Honorable Patrick O'Keefe, Deputy Assistant Secretary of Labor. A welcome to Mr. O'Keefe from the Department of Labor.

STATEMENT OF PATRICK J. O'KEEFE, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY MARVIN FOOKS, DIRECTOR, OFFICE OF TRADE ADJUSTMENT ASSISTANCE

Chairman GIBBONS. Mr. O'Keefe, go right ahead.

Mr. O'KEEFE. Thank you, Mr. Chairman.

I would like to submit the full statement for the record. I recognize that you have had a long day and have considerable time in front of you.

I am, of course, pleased to appear before you today. I am accompanied by Marvin Fooks, who is the Director of our trade activities in the Department of Labor.

Under the Trade Adjustment Assistance Program, workers whose loss of work is attributed, at least in part, to imports, can receive extra unemployment compensation, commonly referred to as trade readjustment allowances or TRA benefits.

These benefits can be considerably longer in duration than those available to other unemployed workers. TRA benefits are equal to the worker's weekly unemployment insurance and are paid to those who have used up all their unemployment insurance and are still not working. Such workers can receive a total of 52 weeks of unemployment insurance and TRA benefits combined. In addition, workers in approved training may receive up to 26 additional weeks of TRA beyond the 52 weeks of basic benefits.

In fiscal year 1985, we estimate that 360,000 weeks of TRA benefits will be paid to 20,000 beneficiaries. In recent years, the large majority of TAA recipients have been workers in the steel and auto industries.

In addition to TRA cash benefits, trade impacted workers may also receive training and job search and relocation allowances. These activities are commonly called "adjustment assistance" services and are intended to assist dislocated workers to find new jobs. In fiscal year 1984, $29.5 million was allocated to the States for these activities and about 10,000 workers entered training or received job search and relocation allowances.

As you know, the authorization for the Trade Adjustment Assistance Program expires on September 30, 1985, and the Administration opposes its reauthorization. Further, we are requesting that the Congress rescind the unused portion of TAA program funds for job search, relocation and training appropriated for fiscal year 1985. For the balance of fiscal year 1985, these activities can be financed from the Secretary's National Reserve under the Dislocated Worker Program authorized by title III of the Job Training Partnership Act (JTPA).

In fiscal year 1986, we propose to continue to provide adjustment assistance to trade impacted workers through the title III Dislocated Worker Program. The title III program is State operated and addresses the reemployment needs of all categories of dislocated workers, including those who are trade impacted. Dislocated workers are provided training, job search and relocation assistance and other supportive services.

We estimate that the JTPA Dislocated Worker Program will serve 150,000 individuals in fiscal year 1985 and another 150,000 in fiscal year 1986, at the funding level contained in the President's budget request. We believe that these program levels under JTPA are more than adequate to serve trade impacted dislocated workers.

One of the major advantages of using JTPA to provide training and other assistance to workers who are adversely affected by imports is that they do not have to go through a lengthy petition process to qualify for assistance, as they do under TAA. Also, the administrative costs of serving these workers under title III will be lower. In addition, the broader eligibility provisions of JTPA title III enables us to serve workers whose unemployment may be related to trade factors but who may not meet the technical criteria of the TAA program.

The title III program has proven to be an effective approach to meeting the training and employment needs of dislocated workers. Of the 50,000 participants who completed the program during transition year, 1984—the 9-month period ending June 30, 1984—approximately 37,000 or 72 percent were placed into employment at the time they terminated the program.

The administration proposes that TRA cash benefits be eliminated with the expiration of the program at the end of September 1985. Workers covered by certifications issued after September 30 will be eligible only for TRA payments for their period of eligibility through September 30. We estimate that retroactive TRA payments will be made to 12,000 workers for a total of 36,000 weeks.

There are several reasons for our proposing to discontinue TRA cash benefits. First, the Regular Unemployment Insurance Program provides adequate benefits for such workers. Furthermore there is evidence that the extra weeks of TRA cash benefits provide disincentives for effective job search by these unemployed workers. Research on unemployment insurance indicates that availability of additional weeks of cash benefits leads workers to remain unemployed for longer periods of time.

Finally, in the context of current budget situation, we are obliged to review carefully and assess both the objectives and the effectiveness of all federally-funded programs. Those programs that are not cost-effective, that are not targeted on those most in need, that are duplicative, and that do not effectively carry out their purpose should be eliminated.

The TAA Program, therefore, must be allowed to terminate as scheduled on September 30, 1985. Trade-impacted workers, like other dislocated workers, will be better served by the provision of training and other adjustment services under title III of JTPA.

Mr. Chairman, this completes my prepared statement.

[The prepared statement follows:]

STATEMENT OF PATRICK J. O'KEEFE, DEPUTY ASSISTANT SECRETARY OF LABOR

Mr. Chairman and Members of the subcommittee, I am pleased to appear before you today to discuss the President's Fiscal Year 1986 budget request as it pertains to the Trade Adjustment Assistance Program administered by the Department of Labor.

Under the Trade Adjustment Assistance Program, workers whose loss of work is attributed, at least in part, to imports can receive extra unemployment compensation, commonly referred to as trade readjustment allowances or TRA benefits. These benefits can be considerably longer in duration than those available to other unemployed workers. TRA benefits are equal to the worker's weekly unemployment benefits and are paid to those who have used all their unemployment insurance and are still not working. Such workers can receive a total of 52 weeks of unemployment insurance and TRA benefits combined. In addition, workers in approved training may receive up to 26 additional weeks of TRA beyond the 52 weeks of basic benefits. In Fiscal Year 1985 we estimate that 360,000 weeks of TRA benefits will be paid to 20,000 beneficiaries. In recent years, the large majority of TAA recipients have been workers in the steel and auto industries.

In addition to TRA cash benefits, trade impacted workers may also receive training and job search and relocation allowancess. These activityies are commonly called "adjustment assistance" services and are intended to assist dislocated workers to find new jobs. In Fiscal Year 1984, $29.5 million was allocated to the States for these activities and about 10,000 workers entered training or received job search and relocation allowances.

As you know, the authorization for the Trade Adjustment Assistance Program expires on September 30, 1985, and the Administration opposes its reauthorization.

Further, we are requesting that the Congress rescind the unused portion of TAA program funds for job search, relocation and training appropriated for Fiscal Year 1985. For the balance of Fiscal Year 1985, these activities can be financed from the Secretary's National Reserve under the Dislocated Worker Program authorized by Title III of the Job Training Partnership Act (JTPA).

In Fiscal Year 1986, we propose to continue to provide adjustment assistance to trade impacted workers through the Title III Dislocated Worker Program. The Title III program is State operated and addresses the reemployment needs of all categories of dislocated workers, including those who are trade impacted. Dislocated workers are provided training, job search and relocation assistance and other supportive services. Under Title III, 75 percent of the Federal funds are allocated to the States on a formula basis, with the remainder allocated by the Secretary to States with critical unemployment problems and large pockets of workers dislocation. We estimate that the JTPA Dislocated Worker Program will serve 150,000 individuals in Fiscal Year 1985 and another 150,000 in Fiscal Year 1986 at the funding level contained in the President's budget request. We believe that these program levels under JTPA are more than adequate to serve trade impacted dislocated workers.

One of the major advantages of using JTPA to provide training and other assistance to workers who are adversely affected by imports is that they do not have to go through a lengthy petition process to qualify for assistance as they do under TAA. Also, the administrtive costs of serving these workers under Title III will be lower. In addition, the broader eligibility provisions of JTPA Title III enables us to serve workers whose unemployment may be related to trade factors but who may not meet the technical criteria of the TAA program. The Title III program has proven to be effective approach to meeting training and employment needs of dislocated workers. Of the 50,000 participants who completed the program during Transition Year 1984—the nine-month period ending June 30, 1984—approximately 37,000 or 72 percent were placed into employment at the time they terminated the program.

The Administration proposes that TRA cash benefits be eliminated with the expiration of the program at the end of September 1985. Workers covered by certifications issued after September 30 will be eligible only for TRA payments for their period of eligibility through September 30. We estimate that retroactive TRA payments will be made to 12,000 workers for a total of 36,000 weeks.

There are several reasons for our proposing to discontinue TRA cash benefits. First, the regular unemployment insurance program provides adequate benefits for such workers, and some of these workers will also receive SUB payments or severance pay under labor-management agreements. We strongly believe that workers who have lost their jobs through no fault of their own should be treated similarly regardless of the reason for job loss. TAA creates a special category of worker and results in the inequitable situation where two workers who have been laid off from neighboring plants and suffer the same degree of hardship receive markedly different benefits.

Furthermore, there is evidence that the extra weeks of TRA cash benefits provide disincentives for effective job search by these unemployed workers. Research on unemployment insurance indicates that availability of additional weeks of cash benefits leads workers to remain unemployed for longer periods of time.

In addition, most workers eligible for TAA have taken advantage only of the weekly cash payments and have not used the training or other adjustment assistance services. Of 1.5 million workers who received TAA from April 1975 through September 1984, only 74,000 (approximately 5 percent) entered training, 2 percent completed training, and less than one percent took job search aid or received relocation allowances. Since the Omnibus Budget Reconciliation Act refocused the program in 1981, a higher proportion of TAA workers have received training, job search and relocation assistance, but the vast majority still do not make use of these services.

Finally, in the context of the current budget situation, we are obligated to review carefully and assess both the objectives and the effectiveness of all federally funded programs. Those programs that are not cost effective, that are not targeted on those most in need, that are duplicative, and that do not effectively carry out their purpose should be eliminated. The TAA program, therefore, must be allowed to terminate as scheduled on September 30, 1985. Trade-impacted workers, like other dislocated workers, will be better served by the provision of training and other adjustment services under title III of JTPA.

Mr. Chairman, this completes my prepared statement. At this time I would be pleased to answer any questions that you or other Members of the Subcommittee may have.

Chairman **Gibbons**. Is it your desire to get everything under one tent or, as I recall the previous testimony, you only were successful in about 5 percent of the cases under the Trade Adjustment Assistance Program, but you are successful in 75 percent in the other program?

What is the matter? Have you all assigned your least competent people to handle the Trade Adjustment Assistance Program or what? I may be have the figures a little confused, but I was intrigued that you had such a high rate of success under one training program, but a very low rate of success under the other.

Would you straighten out those figures for me first?

Didn't the last witness say that only 5 percent of the people——

Mr. **Pease**. Mr. Chairman, if you will yield, that was the Department of Commerce. He was referring to the program for firms.

Chairman **Gibbons**. What percent then—why is this Trade Adjustment Assistance Program that much less effective than the other one?

Mr. **O'Keefe**. The figures that we have on the Trade Adjustment Assistance Program in terms of those who receive training indicate a very low placement rate, probably on the order of 10 percent, perhaps even less; whereas, the JTPA figure is, as you recollect, 72 percent.

Chairman **Gibbons**. Why is that, 10 percent versus 72?

Mr. **O'Keefe**. Mr. Chairman, one of the reasons may very well be because the trade training is often engaged upon by the individual who goes into it for the purposes of obtaining increased income transfer. There is a provision in that law, as you know, that if an individual enters into training they can qualify for an additional 26 weeks of income transfer that would not otherwise be available, and, therefore, many individuals may be induced under that program to enroll in training not for the benefits of increased skills and improved job search assistance, but rather because they desire to continue drawing down the cash transfer.

Chairman **Gibbons**. I cannot believe that anybody would be that stupid. Most of the people that I deal with, run into out in the streets, whether they vote for me or someone else, do not appear to be that incompetent. Most of them have got car payments to make and house payments to make and a stomach to be filled three times a day and sometimes four or five stomachs to be filled three times a day; and I just cannot believe that they hang around and not get jobs just to pick up a few extra bucks while they are being retrained. I just cannot believe it. I frankly doubt the validity of your figures.

Mr. **O'Keefe**. Well, Mr. Chairman, I can provide you data we have——

Chairman **Gibbons**. I know you have got data. Anybody can get data. But why have you just put the stupid people in the Department of Labor training these people? That is what it sounds like.

Mr. **O'Keefe**. Mr. Chairman, the Job Training Partnership Act, which was signed into law by President Reagan, is the one which has the 72 percent placement rate.

Chairman **Gibbons**. I understand that, and 72 versus 15 or 20 percent. It just does not make sense.

Mr. O'KEEFE. It does not, Mr. Chairman, because it is that kind of figure that causes us to recommend the end of the program.

Chairman GIBBONS. You invented those figures. Those figures are as phony as a $3 bill. I do not apologize for what I said. I have been around this place long enough to know when I hear phony figures and that is a phony figure, and you can tell the Secretary I said that and anybody else over in that Department that I said that. I do not apologize for it.

Now, anybody else want to ask any questions?

Mr. O'KEEFE. Mr. Chairman, I would invite you to send staff members over to look at the data.

Chairman GIBBONS. I do not believe it. I know enough about human nature that you are not going to have that kind of difference. You just like one program, so you invent these figures to do that.

Mr. O'KEEFE. If the design of a program is ineffective, Mr. Chairman, the figures are going to be low.

Chairman GIBBONS. Where is the design of the program ineffective? You administer both the programs, unless you just put the stupid people over administering one program.

Mr. O'KEEFE. No, sir; the design of the trade program requires that the individuals enrolled in it first must be certified, that the cause of their unemployment or at least an important contribution to that unemployment——

Chairman GIBBONS. I understand that. That has been the law for 15 years around here.

Mr. O'KEEFE. You have been a strong proponent and that program has been there. There has been a certification process and that process, even with the progress we have made recently in bringing down the backlog, takes a couple months. So the training is not available to those individuals until they are well into unemployment.

Under JTPA they can begin as soon as they are laid off or even with a notice of layoff. We can get with them and explain to them what their options are, and we take advantage of the time that is available to them and when their morale is still high. We help them examine their options. We do not sit back and wait the 90 days or so to certify that the cause of unemployment was trade. The design of the program is much more responsive to the local conditions, not to some external factor.

Chairman GIBBONS. But then after you get them, you still cannot—in 3-months, let's say in 3-months say they have lost all desire to have a job, even though they may have 40 years or 50 years more of life ahead of them. They have gotten so comfortable by being unemployed, you would have me believe, that they just do not want to get a job and so they do not work and they do not train. I do not believe it. I do not believe it.

Mr. O'KEEFE. I do not believe that is true of all those individuals and that is why so many who are trade displaced return to jobs on their own, not waiting for us to go through that certification process. Many of them in that early period go out and take jobs and arrange those services for themselves, so that the people who are available to enroll in the Trade Training Program have exhausted many opportunities. They are going to be individuals who have less competitive advantage in that market than those who have already placed themselves.

Chairman **Gibbons**. I think you came up with those phony figures just to justify your conclusions, but I hope you get the people retrained.

You are telling me you have got enough money in the other program to train everybody, even the people that are eligible under this program; is that right?

Mr. **O'Keefe**. Yes, sir.

Chairman **Gibbons**. And so we can believe that everybody who needs training in the United States, regardless of why they need it, is getting the training?

That is a little hard for me to swallow. That is about as hard for me to swallow as your figures on the success rate from one program to another.

Mr. **O'Keefe**. We have adequate money at the present time, Mr. Chairman, to bring the program up to the level where we will serve about 150,000 to 200,000 individuals a year. That is more training for dislocated workers than has ever gone on in this country before. I point out that until 1982, with the passage of the Job Training Partnership Act, the only Dislocated Worker Training Program we had was the Trade Program and it has never been financed at the levels that this Administration has proposed and supported over the past 3 years for the JTPA Dislocated Worker Program.

Chairman **Gibbons**. Mr. Frenzel.

Mr. **Frenzel**. I have no questions, Mr. Chairman.

Chairman **Gibbons**. Mr. Pease?

Mr. **Pease**. Mr. Chairman, thank you.

Mr. O'Keefe and I had a conversation yesterday in the Unemployment Compensation Committee, and I am pleased to observe his total consistency in his attitude between unemployed workers and whether they deserve to get any unemployment compensation and whether training can be an effective part or whether they deserve training in response to layoffs caused by imports.

I am really a little reluctant to carry on a conversation, Mr. O'Keefe. I think the Chairman has really put his finger on it. There is all kinds of evidence apparent to us that the Department of Labor does not want the TAA Program to operate, has made sure it would not operate properly and then comes in to tell us that it does not operate properly.

I got a call from the Ohio Bureau of Employment Services, Mr. Chairman, back in December after we had appropriated $26 million for operating the TAA Program. The first quarter was within 10 days or so of expiring. Not a dime of TAA Program money had been distributed yet during that first quarter.

You had workers who were trying to sign up for training. The Ohio Bureau of Employment Services did not know what to tell them. The colleges needed the money or they would not enroll the people. Yet, there was no money and we went around and around, and I think if I had not personally intervened there probably still would not be any money going out to the States for that program.

As it was, despite assurances that I received from Mr. Natcher on the Appropriations Committee that there was ample money available at the national level to pay for the administration, the Department of Labor effectively forced the cost of administration onto the State governments, which was not intended by the Congress.

We passed a provision last year, as you know, in the Tax Reform Act of 1984, improving the allowances for job research and job relocation. We improved eligibility and with Mr. Frenzel's help, I might add, provided a clarification for eligibility for the additional 26 weeks of TRA benefits during training.

It has been 6 months. I do not think the regulations have been issued yet. I do not think the States are aware yet of what they can do. They have not been told what to do, and it seems hard for me to believe, as it does for you to believe, that the same agency can administer two different programs and report a 72-percent success rate in one and a 15-percent success rate in another unless they are deliberately sabotaging the program.

It certainly looks to me as if that is what they have been doing. Consequently, I think basically we can accept the testimony, but I hope the committee will not be bound by that testimony. We will, with the chairman's permission, try to seek both here in Washington and perhaps in some field hearings some independent judgments about what this program has meant to people and how it is being administered and how it is working.

I still believe, and believe rather strongly, that we have a compact with the workers of this country. We reduce our tariffs year after year. We open up our markets and that provides a negative impact on some industries and on some workers. The compact we entered into was that in return for the easing of import restrictions we would help the workers. That does not mean giving them the straight 26 weeks of State benefits and then saying it would be wrong to give you any more because that might encourage you not to go out and look for a job.

I think that is ridiculous and it really should be discussed at a public hearing.

Mr. Chairman, I could ask some specific questions, but as I say, I think we know the position of the Department of Labor and of the current administration. We know they are not going to yield. We know they are not going to administer the program in a way that would give it half a chance. It seems to me that even if we continue the program for workers maybe we need to put that in the Department of Defense, too, because the Department of Labor has certainly not been doing the job.

Chairman GIBBONS. Thank you, Mr. O'Keefe.

[The following was received for the record:]

FEBRUARY 4, 1985.

Hon. RAYMOND J. DONOVAN,
Secretary, U.S. Department of Labor,
Washington, DC.

DEAR MR. SECRETARY: I anticipate that the Subcommittee on Trade of the Committee of Ways and Means will hold hearings on the President's fiscal year 1986 budget request for various agencies and programs within its jurisdiction on February 21, 1985. As background information, I would appreciate your response to the attached questions on the trade adjustment assistance program for workers by no later than noon, Tuesday, February 19. Since the program is due to expire on September 30, 1985, the hearing will include testimony on its operation, impact, and possible reauthorization. You will be receiving shortly a notice of the hearing and request to testify.

Thank you for your cooperation.

Sincerely,

Sam M. Gibbons, *Chairman.*

U.S. Department of Labor,
Assistant Secretary for Employment and Training,
Washington, DC, February 19, 1985.

Hon. Sam M. Gibbons,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Mr. Chairman: Under Secretary Ford has asked me to respond to your February 4 letter transmitting questions on the Trade Adjustment Assistance program for workers. Our responses to these questions and two additional questions provided to the Department by your staff are enclosed.

I hope that this information is helpful to the Committee.

Sincerely,

Patrick J. O'Keefe,
Deputy Assistant Secretary of Labor.

Enclosure.

TRADE ADJUSTMENT ASSISTANCE

Question 1a. What was the level of funding under the Trade Adjustment Assistance (TAA) program for training and job search and relocation allowances allocated by State in fiscal year 1984?

Answer. $29.7 million was appropriated in FY 1984 for the Trade Adjustment Assistance program. Those funds were allocated to the States as follows:

Region I, Boston	$225,947
Connecticut	21,182
Maine	35,407
Massachusetts	90,454
New Hampshire	39,778
Rhode Island	22,347
Vermont	16,779
Region II, New York	3,230,424
New Jersey	962,084
New York	2,256,249
Puerto Rico	12,091
Virgin Islands	—
Region III, Philadelphia	9,712,037
Delaware	0
District of Columbia	—
Maryland	716,032
Pennsylvania	8,511,451
Virginia	139,110
West Virginia	345,174
Region IV, Atlanta	609,553
Alabama	313,400
Florida	0
Georgia	0
Kentucky	221,836
Mississippi	9,200
North Carolina	5,317
South Carolina	13,800
Tennessee	46,000
Region V, Chicago	[1] 5,441,057
Illinois	134,638
Indiana	1,413,541
Michigan	414,434
Minnesota	1,237,976
Ohio	1,263,149
Wisconsin	809,130

Region VI, Dallas	846,403
Arkansas	21,240
Louisiana	46,050
New Mexico	16,000
Oklahoma	0
Texas	763,113
Region VII, Kansas	340,403
Iowa	30,100
Kansas	0
Missouri	310,303
Nebraska	0
Region VIII, Denver	1,504,119
Colorado	345,450
Montana	0
North Dakota	0
South Dakota	0
Utah	876,707
Wyoming	291,962
Region IX, San Francisco	7,399,616
Arizona	655,343
California	[2] 5,699,998
Hawaii	54,615
Nevada	989,660
Region X, Seattle	389,993
Alaska	0
Idaho	93,075
Oregon	17,106
Washington	279,812

[1] $169,189 of FY 1984 funds were lost because they were not allocated to a state prior to September 30, 1984.

[2] California also received $3,000,000 of JTPA funds for TAA program services and activities.

Question 1b. How many workers were funded for these activities by State.

Answer.

FISCAL YEAR 1984 TAA PARTICIPANT ACTIVITY BY STATE

	Job search	Relocation	Training
Region I, Boston	0	1	19
Connecticut	0	0	1
Maine	0	1	7
Massachusetts	0	0	4
New Hampshire	0	0	6
Rhode Island	0	0	0
Vermont	0	0	1
Region II, New York	91	130	446
New Jersey	1	2	120
New York	90	128	300
Puerto Rico	0	0	26
Region III, Philadelphia	171	129	1,740
Delaware	0	0	1
District of Columbia	0	0	0
Maryland	0	0	988
Pennsylvania	145	101	523
Virginia	0	0	41
West Virginia	26	28	187
Region IV, Atlanta	0	0	43
Alabama	0	0	15
Florida	0	0	5
Georgia	0	0	0
Kentucky	0	0	13
Mississippi	0	0	0

FISCAL YEAR 1984 TAA PARTICIPANT ACTIVITY BY STATE—Continued

	Job search	Relocation	Training
North Carolina	0	0	10
South Carolina	0	0	0
Tennessee	0	0	0
Region V, Chicago	222	311	2,273
Illinois	0	0	148
Indiana	2	31	190
Michigan	52	93	432
Minnesota	111	106	159
Ohio	53	80	1,306
Wisconsin	4	1	38
Region VI, Dallas	15	31	311
Arkansas	0	0	1
Louisiana	0	0	10
New Mexico	0	3	34
Oklahoma	0	0	3
Texas	15	28	263
Region VII, Kansas	0	3	97
Iowa	0	1	0
Kansas	0	0	0
Missouri	0	2	97
Nebraska	0	0	0
Region VIII, Denver	111	60	648
Colorado	7	17	41
Montana	0	0	0
North Dakota	0	0	0
South Dakota	0	0	0
Utah	41	33	539
Wyoming	63	10	68
Region IX, San Francisco	159	1,530	888
Arizona	53	117	233
California	25	1,389	609
Hawaii	1	1	0
Nevada	80	23	46
Region X, Seattle	30	27	358
Alaska	0	0	0
Idaho	28	25	31
Oregon	0	0	0
Washington	2	2	327
U.S. totals	799	2,222	6,823

Question 1c. What funding levels have been allocated by State so far in fiscal year 1985 and what is the estimated number of workers to be trained with these funds in each State? What are the projections on fund levels and number of workers to be assisted by State for the remainder of fiscal year 1985, assuming funds are not rescinded? How many workers were not approved for training in fiscal year 1984 and this year to date because of insufficient funds being available?

Answer. In fiscal year 1985, TAA funds are being allocated to States based on identified needs for job search, relocation and training funds and not on a prospective allocation formula as used in prior years.

In FY 1984, delays in allocating funds occurred because of a later than usual OMB release of funds to the Department and our efforts to devise a formula for allocating funds to the States that would anticipate State requirements for the year.

Once the allocation formula was devised funds were allocated quickly. However, the allocation formula proved to have little predictive value and toward the end of the fiscal year we found some States were short of money and others had large balances of unused funds that could not easily be reallocated.

We started this year with a number of States possessing substantial carryover funds from 1984 and prior years and did not want to aggravate that situation by allocating funds on a formula basis. Instead, we are funding program needs as they arise. This appears to be effective both in meeting immediate needs and also allowing States with carryover funds to use those funds before requesting additional funds.

Seven States requested and received new obligational authority for $1.2 million to date. Six other States, which have recently requested $560,000, will be funded soon.

Because of the funding procedures being used by the Department, this fiscal year, State-by-State projections have not been made.

During FY 1984 all States requests for training funds were satisfied out of the $29.7 million available with the possible exception of Pennsylvania. In Pennsylvania, training demand was higher than initially anticipated and funds allocated to other States were reprogrammed to increase Pennsylvania's allocation. This reallocation took place during the last quarter of the fiscal year.

Because of difficulties in precisely allocating available funds, Pennsylvania and several other States reported that approximately 4,944 workers could not be approved for TAA training in FY 1984. However many of these workers were referred to the State JTPA agency for assistance.

Question 1d. How many TAA certified workers have been referred to JTPA dislocated worker programs because of unavailability of TAA training funds?

Answer. Despite the availability of $29.7 million to meet training and other adjustment assistance needs under TAA, State employment security agencies have already begun to utilize the JTPA dislocated worker program to provide this assistance. State employment security agencies have reported that approximately 4,700 TAA certified workers were referred to the JTPA dislocated worker program in FY 1984.

Question 2. Last year there were substantial delays in some States receiving their quarterly allocations of TAA funds to meet actual demands for training. What method is being used to allocate training funds to the States in this fiscal year and have any administrative changes been made to ensure expeditious delivery?

Answer. The Department modified its procedures for allocating TAA funds to States in fiscal year 1985 because of the experience of the past years and to insure that funds are allocated to States promptly to satisfy identified needs.

States now submit requests for TAA funds to the Department supported by the number of worker applications for job search and relocation allowances, the number of worker training requests, and the estimated cost of each activity. New obligational authority is provided to States monthly to meet immediate needs for program services and activities and to insure the timely delivery of program services. Because of the prospective nature of the TAA program, this procedure has the distinct advantage of getting funds to States based on identified needs rather than allocating funds to States based on projected needs that may not materialize.

This procedure also permits a quicker turnaround on the delivery of new obligational authority to States, rather than having States with fund needs wait for quarterly allocations.

Question 3. What is the allocation by State of the total appropriation for the dislocated worker program under the Job Training Partnership Act (JTPA)? Which states provide the matching funds required? Which states actually have the dislocated worker program in operation? How many workers are assisted under the dislocated worker program by State? How many receive training? How many of the assisted dislocated workers in each State are trade impacted?

Please answer each of the above questions for each of the following periods: for actual 1984 experience, estimates through June 30, 1985, projections for Program Year July 1, 1985 through June 30, 1986, and for Program Year July 1, 1986 through June 30, 1987. What are the economic assumptions (e.g., unemployment rates) used in making the projections?

Answer. Appropriations for the Title III dislocated worker program were made available for Fiscal Year (FY) 1983, prior to the implementation of the basic JTPA program. Two separate appropriations were passed that year, which ended September 30, 1983. Attached are the allotments, by State, for FY 1983, including required matching funds for the initial appropriations (the Emergency Jobs Act did not require State matching funds). A total of $110 million, including $27.5 million reserved by the Secretary, was appropriated that year.

For the 9-month transition period October 1, 1983 through June 30, 1984, appropriations totaled $94.25 million, of which 75 percent was allotted by formula to the States. Allotments and State matching requirements for the 9-month transition period are attached.

For Program Year (PY) 1984, appropriations for Title III totaled $223 million. Allotments to States of 75 percent of these funds are attached, along with the required State match.

For PY 1985, the President has proposed a rescission of a portion of the funds appropriated. The total available would be reduced to $103 million, of which 75 percent would be distributed by formula. Attached are allotments to States, including the required match, for the period beginning July 1, 1985. The President's budget request proposes $100 million for PY 1986. Allotments will be issued next December, based on the most recent available data. This year, the unemployed, and relative numbers of "excess" unemployed were averages for the period September 1983 through August 1984. Long-term unemployed data used were for calendar year 1983.

All States have operational Title III dislocated worker programs. Total enrollments through June 30, 1984, the end of the 9-month transition period, the most recent timeframe for which we have reports, numbered over 96,000 participants. The "training" cost category accounted for 77 percent of total expenditures; however, this may also include such activities as job search assistance. We do not have information by State on the numbers of participants that were trade impacted.

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1983 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS

	Unemployment rate	Reduction units	Initial allotment	Required match	Total program	Jobs bill allotment	New total program
Alabama	13.3	5	460,786	0	460,786	1,608,754	2,069,540
Alaska	9.8	1	33,967	27,174	61,141	111,761	172,902
Arizona	8.7	0	179,685	179,685	359,370	724,666	1,084,036
Arkansas	9.9	1	168,849	135,079	303,928	525,425	829,353
California	9.3	1	1,937,839	1,550,271	3,488,110	6,923,535	10,411,645
Colorado	6.6	0	148,254	148,254	296,508	610,650	907,158
Connecticut	6.7	0	169,379	169,379	338,758	552,257	891,015
Delaware	8.6	0	47,429	47,429	94,858	125,838	220,696
District of Columbia	10.3	2	67,863	40,718	108,581	202,450	311,031
Florida	7.7	0	569,017	569,017	1,138,034	1,980,364	3,118,398
Georgia	7.5	0	303,431	303,431	606,862	1,028,913	1,635,775
Hawaii	6.4	0	42,071	42,071	84,142	141,295	225,437
Idaho	9.4	1	67,776	54,221	121,997	232,770	354,767
Illinois	10.3	2	1,204,194	722,516	1,926,710	4,057,334	5,984,044
Indiana	11.8	3	646,670	258,668	905,338	1,985,288	2,890,626
Iowa	8.5	0	215,461	215,461	430,922	726,694	1,157,616
Kansas	5.6	0	93,189	93,189	186,378	359,574	545,952
Kentucky	10.2	1	307,270	245,816	553,086	1,005,748	1,558,834
Louisiana	10.1	1	333,010	266,408	599,418	1,037,450	1,636,868
Maine	8.3	0	68,625	68,625	137,250	236,457	373,707
Maryland	8.6	0	342,275	342,275	684,550	1,011,851	1,696,401
Massachusetts	7.8	0	361,786	361,786	723,572	1,268,559	1,992,131
Michigan	14.6	6	1,446,231	0	1,446,231	4,565,801	6,012,032
Minnesota	6.8	0	231,339	231,339	462,678	919,070	1,381,748
Mississippi	10.3	2	200,123	120,074	320,197	700,417	1,020,614
Missouri	8.7	0	376,949	376,949	753,898	1,218,260	1,972,158
Montana	8.4	0	57,127	57,127	114,254	179,778	294,032
Nebraska	5.4	0	51,991	51,991	103,982	226,599	330,581
Nevada	8.7	0	70,944	70,944	141,888	291,521	433,409
New Hampshire	6.7	0	48,022	48,022	96,044	175,665	271,709
New Jersey	8.5	0	560,493	560,493	1,120,986	1,828,086	2,949,072
New Mexico	8.5	0	83,832	83,832	167,664	289,376	457,040
New York	8.1	0	1,261,093	1,261,093	2,522,186	3,895,876	6,418,062
North Carolina	8.4	0	406,781	406,781	813,562	1,465,261	2,278,823
North Dakota	5.0	0	25,801	25,801	51,602	69,427	121,029
Ohio	11.8	3	1,288,463	515,385	1,803,848	4,389,353	6,193,201

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	Unemployment rate	Reduction units	Initial allotment	Required match	Total program	Jobs bill allotment	New total program
Oklahoma	5.0	0	80,853	80,853	161,706	333,087	494,793
Oregon	11.2	2	279,206	167,524	446,730	968,641	1,415,371
Pennsylvania	10.2	1	1,118,333	894,666	2,012,999	3,870,301	5,883,300
Puerto Rico	22.4	14	433,201	0	433,201	1,370,816	1,804,017
Rhode Island	9.0	0	73,802	73,802	147,604	285,181	432,785
South Carolina	10.6	2	284,058	170,435	454,493	951,079	1,405,572
South Dakota	5.1	0	20,125	20,125	40,250	77,782	118,032
Tennessee	10.9	2	434,814	260,888	695,702	1,509,322	2,205,024
Texas	6.2	0	605,854	605,854	1,211,708	2,154,706	3,366,414
Utah	7.5	0	79,468	79,468	158,936	260,258	419,194
Vermont	7.0	0	27,012	27,012	54,024	87,238	141,262
Virginia	7.1	0	282,792	282,792	565,584	1,051,958	1,617,542
Washington	11.7	3	431,351	172,540	603,891	1,553,661	2,157,552
West Virginia	11.7	3	210,139	84,056	294,195	745,674	1,039,869
Wisconsin	9.5	1	460,589	368,471	829,060	1,664,953	2,494,013
Wyoming	4.9	0	13,141	13,141	26,282	64,658	90,940
American Samoa	0.0	0	3,219	0	3,219	11,111	14,330
Guam	0.0	0	13,402	0	13,402	46,258	59,660
Northern Marianas	0.0	0	486	0	486	1,677	2,163
Trust Territories	0.0	0	3,753	0	3,753	12,954	16,707
Virgin Islands	0.0	0	16,387	0	16,387	56,562	72,949
National reserve	0.0	0	6,250,000	0	6,250,000	21,250,000	27,500,000
National total	9.2	0	25,000,000	12,952,931	37,952,931	85,000,000	122,952,931

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, TP 1984 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Alabama	14.7	5	1,782,690	0	1,782,690
Alaska	10.1	1	123,845	99,076	222,921
Arizona	10.2	1	803,016	642,413	1,445,429
Arkansas	9.7	0	582,234	582,234	1,164,468
California	10.1	1	7,672,100	6,137,680	13,809,780
Colorado	7.9	0	676,673	676,673	1,353,346
Connecticut	7.0	0	611,966	611,966	1,223,932
Delaware	8.1	0	139,444	139,444	278,888
District of Columbia	10.5	1	224,338	179,470	403,808
Florida	8.4	0	2,194,479	2,194,479	4,388,958
Georgia	7.8	0	1,140,157	1,140,157	2,280,314
Hawaii	6.7	0	156,572	156,572	313,144
Idaho	9.9	0	257,937	257,937	515,874
Illinois	11.6	2	4,496,008	2,697,605	7,193,613
Indiana	12.0	2	2,199,935	1,319,961	3,519,896
Iowa	8.6	0	805,263	805,263	1,610,526
Kansas	6.5	0	398,450	398,450	796,900
Kentucky	10.7	1	1,114,488	891,590	2,006,078
Louisiana	10.5	1	1,149,617	919,694	2,069,311
Maine	8.6	0	262,022	262,022	524,044
Maryland	8.4	0	1,121,251	1,121,251	2,242,502
Massachusetts	8.0	0	1,405,715	1,405,715	2,811,430
Michigan	15.5	6	5,059,451	0	5,059,451
Minnesota	8.0	0	1,018,439	1,018,439	2,036,878

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, TP 1984 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS—Continued

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Mississippi	11.2	2	776,145	465,687	1,241,832
Missouri	9.4	0	1,349,977	1,349,977	2,699,954
Montana	8.8	0	199,215	199,215	398,430
Nebraska	6.3	0	251,099	251,099	502,198
Nevada	10.3	1	323,040	258,432	581,472
New Hampshire	7.5	0	194,658	194,658	389,316
New Jersey	8.9	0	2,025,737	2,025,737	4,051,474
New Mexico	9.3	0	320,663	320,663	641,326
New York	8.6	0	4,317,093	4,317,093	8,634,186
North Carolina	9.1	0	1,623,683	1,623,683	3,247,366
North Dakota	5.9	0	76,933	76,933	153,866
Ohio	12.8	3	4,863,925	1,945,570	6,809,495
Oklahoma	5.9	0	369,100	369,100	738,200
Oregon	11.6	2	1,073,369	644,021	1,717,390
Pennsylvania	11.2	2	4,288,753	2,573,252	6,862,005
Puerto Rico	23.0	13	1,519,027	0	1,519,027
Rhode Island	10.4	1	316,015	252,812	568,827
South Carolina	10.9	1	1,053,909	843,127	1,897,036
South Dakota	5.6	0	86,192	86,192	172,384
Tennessee	11.9	2	1,672,508	1,003,505	2,676,013
Texas	7.1	0	2,387,670	2,387,670	4,775,340
Utah	7.9	0	288,397	288,397	576,794
Vermont	6.9	0	96,670	96,670	193,340
Virginia	7.8	0	1,165,695	1,165,695	2,331,390
Washington	12.2	3	1,721,641	688,656	2,410,297
West Virginia	14.5	5	826,295	0	826,295
Wisconsin	10.9	1	1,844,966	1,475,973	3,320,939
Wyoming	6.3	0	71,649	71,649	143,298
American Samoa	0.0	0	14,575	0	14,575
Guam	0.0	0	60,681	0	60,681
Northern Marianas	0.0	0	4,685	0	4,685
Trust Territories	0.0	0	33,247	0	33,247
Virgin Islands	0.0	0	74,198	0	74,198
National Reserve	0.0	0	23,562,500	0	23,562,500
National total	10.1	0	94,250,000	48,633,557	142,883,557

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT, FY 1984 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Alabama	14.3	5	4,079,060	0	4,079,060
Alaska	10.2	1	296,493	237,194	533,687
Arizona	10.3	1	1,900,800	1,520,640	3,421,440
Arkansas	9.7	0	1,340,825	1,340,825	2,681,650
California	10.3	1	18,211,123	14,568,898	32,780,021
Colorado	8.0	0	1,603,294	1,603,294	3,206,588
Connecticut	6.8	0	1,383,095	1,383,095	2,766,190
Delaware	7.6	0	303,277	303,277	606,554
District of Columbia	10.8	1	541,283	433,026	974,309
Florida	8.9	0	5,521,134	5,521,134	11,042,268
Georgia	7.6	0	2,601,742	2,601,742	5,203,848
Hawaii	6.4	0	342,631	342,631	685,262
Idaho	10.3	1	635,620	508,496	1,144,116

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT, FY 1984 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS—Continued

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Illinois	12.2	3	10,866,051	4,346,420	15,212,471
Indiana	11.3	2	4,810,706	2,886,424	7,697,130
Iowa	8.6	0	1,853,741	1,853,741	3,707,482
Kansas	6.4	0	924,805	924,805	1,849,610
Kentucky	11.2	2	2,680,337	1,608,202	4,288,539
Louisiana	12.1	2	3,088,379	1,853,027	4,941,406
Maine	8.9	0	637,866	637,866	1,275,732
Maryland	7.5	0	2,310,360	2,310,360	4,620,720
Massachusetts	7.1	0	2,902,123	2,902,123	5,804,246
Michigan	15.2	6	11.578,385	0	11,578,385
Minnestoa	8.4	0	2,465,109	2,465,109	4,930,218
Mississippi	12.1	2	1,932,727	1,159,636	3,092,363
Missouri	9.7	0	3,242,489	3,242,489	6,484,978
Montana	8.7	0	457,198	457,198	914,396
Nebraska	6.2	0	574,908	574,908	1,149,816
Nevada	10.2	1	753,523	602,818	1,356,341
New Hampshire	6.4	0	374,280	374,280	784,560
New Jersey	8.5	0	4,503,918	4,503,918	9,007,836
New Mexico	10.2	1	818,114	654,491	1,472,605
New York	9.0	0	10,422,943	10,422,943	20,845,886
North Carolina	8.9	0	3,650,676	3,650,676	7,301,352
North Dakota	6.0	0	185,629	185,629	371,258
Ohio	12.9	3	11,438,077	4,575,231	16,013,308
Oklahoma	8.1	0	1,317,932	1,317,932	2,635,864
Oregon	10.8	1	2,350,768	1,880,614	4,231,382
Pennsylvania	12.3	3	10,823,137	4,329,255	15,152,392
Puerto Rico	23.6	14	3,391,510	0	3,391,510
Rhode Island	9.5	0	669,235	669,235	1,338,470
South Carolina	10.4	1	2,315,906	1,852,725	4,168,631
South Dakota	5.7	0	206,188	206,188	412,376
Tennessee	11.7	2	3,805,859	2,283,515	6,089,374
Texas	8.1	0	6,719,377	6,719,377	13,438,754
Utah	8.9	0	758,998	758,998	1,517,996
Vermont	7.0	0	225,398	225,398	450,796
Virginia	6.9	0	2,395,540	2,395,540	4,791,080
Washington	11.5	2	3,828,532	2,297,119	6,125,651
West Virginia	17.8	8	2,241,181	0	2,241,181
Wisconsin	10.9	1	4,260,996	3,408,797	7,669,793
Wyoming	8.9	0	263,359	263,359	526,718
American Samoa	0.0	0	31,038	0	31,038
Guam	0.0	0	129,217	0	129,217
Northern Marianas	0.0	0	11,084	0	11,084
Trust Territories	0.0	0	114,025	0	114,025
Virgin Islands	0.0	0	157,999	0	157,999
National Reserve	0.0	0	55,750,000	0	55,750,000
National total	10.1	0	223,000,000	111,164,598	334,164,598

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	Unemployment rate	Reduction units	Allotment	Required match	Total program
Alabama	11.7	4	2,020,914	404,183	2,425,097
Alaska	10.5	3	195,553	78,221	273,774

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, PY 1985 JTPA TITLE III, DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS—Continued

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Arizona	6.0	0	611,273	611,273	1,222,546
Arkansas	9.0	1	760,714	608,571	1,369,285
California	8.1	0	8,313,749	8,313,749	16,627,498
Colorado	5.3	0	533,346	533,346	1,066,692
Connecticut	4.7	0	429,842	429,842	859,684
Delaware	6.6	0	146,239	146,239	292,478
District of Columbia	10.5	3	314,525	125,810	440,335
Florida	6.9	0	2,415,156	2,415,156	4,830,312
Georgia	6.3	0	1,182,548	1,182,548	2,365,096
Hawaii	5.9	0	173,782	173,782	347,564
Idaho	7.6	0	279,377	279,377	558,754
Illinois	9.5	2	4,959,843	2,975,906	7,935,749
Indiana	9.3	2	2,204,011	1,322,407	3,526,418
Iowa	7.0	0	802,534	802,534	1,605,068
Kansas	5.2	0	394,495	394,495	788,990
Kentucky	9.7	2	1,497,219	898,331	2,395,550
Louisiana	9.9	2	1,697,367	1,018,420	2,715,787
Maine	7.3	0	298,069	298,069	596,138
Maryland	5.6	0	853,786	853,786	1,707,572
Massachusetts	5.6	0	1,144,478	1,144,478	2,288,965
Michigan	11.8	4	5,159,019	1,031,804	6,190,823
Minnesota	6.6	0	1,140,257	1,140,257	2,280,514
Mississippi	10.5	3	1,056,375	422,550	1,478,925
Missouri	8.1	0	1,635,406	1,635,406	3,270,812
Montana	8.2	1	252,450	201,960	454,410
Nebraska	4.5	0	195,592	195,592	391,184
Nevada	7.9	0	324,681	324,681	649,362
New Hampshire	4.2	0	102,881	102,881	205,762
New Jersey	6.6	0	1,850,505	1,850,505	3,701,010
New Mexico	8.2	1	390,075	312,060	702,135
New York	7.5	0	4,917,526	4,917,526	9,835,052
North Carolina	6.8	0	1,608,485	1,608,485	3,216,970
North Dakota	5.1	0	94,805	94,805	189,610
Ohio	10.0	2	5,189,838	3,113,903	8,303,741
Oklahoma	7.4	0	938,220	938,220	1,876,440
Oregon	9.6	2	1,151,618	690,971	1,842,589
Pennsylvania	9.7	2	5,142,907	3,085,744	8,228,651
Puerto Rico	21.5	14	1,898,930	0	1,898,930
Rhode Island	6.6	0	251,825	251,825	503,650
South Carolina	7.6	0	898,862	898,862	1,797,724
South Dakota	4.6	0	74,484	74,484	148,968
Tennessee	9.2	2	1,817,394	1,090,436	2,907,830
Texas	6.5	0	3,452,220	3,452,220	6,904,440
Utah	7.1	0	371,188	371,188	742,376
Vermont	6.0	0	107,021	107,021	214,042
Virginia	4.9	0	746,638	746,638	1,493,276
Washington	10.0	2	1,856,587	1,113,952	2,970,539
West Virginia	15.0	7	1,279,602	0	1,279,602
Wisconsin	8.1	0	1,793,560	1,793,560	3,587,120
Wyoming	6.3	0	117,447	117,447	234,894
American Samoa	0.0	0	12,902	0	12,902
Guam	0.0	0	53,715	0	53,715
Northern Marianas	0.0	0	5,120	0	5,120
Trust Territories	0.0	0	67,365	0	67,365
Virgin Islands	0.0	0	65,680	0	65,680
National Reserve	0.0	0	25,750,000	0	25,750,000
National total	8.1	0	103,000,000	56,695,506	159,695,506

Question 4. Of the total appropriation for the dislocated worker program for the program year ending June 30, 1985, what level of discretionary funding has been retained by the Secretary of unexpected unemployment increases? How much has been expended so far and for what purposes? What are the projections on use of these discretionary funds for the program years beginning July 1, 1985 and July 1, 1986?

Answer. Pursuant to Section 301(a) of JTPA, the Secretary reserved 25 percent of the Program Year 1984 (7/1/84-6/30/85) Title III appropriation for disclocated workers. The amount reserved totaled $55,750,000. Of this amount, approximately $17,000,000 has been committed for individual dislocated worker projects in 24 States leaving approximately $38,750,000 available to fund trade and other dislocated worker projects. Projects which have been approved provide for training, retraining, job search assistance, relocation and related services. Examples of the kinds of projects funded include:

Illinois' project to retrain dislocated steel workers in Chicago;

Michigan's AFL-CIO project for serving dislocated mine workers in the northern part of the State;

Montana's Butte-Silver Bow project to retrain dislocated Anaconda mine workers for electrician, machinist and boilermaker openings;

The Oregon Consortium's project to retrain dislocated workers from the forestry industry;

New Mexico's project to assist dislocated miners in the uranium industry;

Utah's project to serve dislocated miners from the Wilberg Mine disaster; and

Ohio's project to serve dislocated Kroger workers in Northeastern Ohio.

These projects serve dislocated workers who are out of work because of mass layoffs, natural disasters, Federal Government actions or who reside in areas of high unemployment or designated enterprise zones.

While we cannot predict the specific nature of the projects which will be funded out of the national reserve fund under Title III in PY 1985 and 1986, we anticipate that we will continue to use these funds to meet urgent State requirements in accordance with Section 301(c) of the Act.

Question 5(a). The 1986 budget estimate for the JTPA disclocated worker program of about $123 million is less than one-half of the actual level in 1984 of about $263 million. the budget apparently proposes rescission of $119.5 million of the $235 million estimate for 1985 because of "substantial amount of unused funds." The budget also proposes rescission of the separate $26 million appropriated in Fiscal Year 1985 for TAA training and job search and relocation allowances "because individuals eligible for these programs will be served under the JTPA dislocated worker assistance program."

Why is over one-half of the 1985 level and substantial amounts of 1984 funds for dislocated worker assistance unused, particularly given major structural unemployment problems in a number of industries?

Answer. Expenditure reports for the Title III program as of June 30, 1984, indicated that expenditures were not at the level anticipated by the funding levels provided. The Department believes that this basically reflects the fact that a considerable amount of funds was made available within a fairly short period of time and that during a good portion of that time States were involved in the implementation of the overall JTPA legislation. This is especially true of the funds made available for FY 1983. As a result, the FY 1983 funds were still available when the Transition Year 1984 funds were allocated. Therefore, States were faced with developing programs to effectively utilized both the FY 1983 and TY 1984 funds during the 9-month transition year (October 1, 1983-June 30, 1984). Also, the program itself, unlike most programs under JTPA, was a new effort and the States were proceeding cautiously to assure that the funds were being used properly and effectively. This appropriate caution led to a slower-than-anticipated expenditure of funds. Finally, it should be noted that 25 percent of the funds is reserved by the Secretary and most of these funds were obligated late in 1983, leaving very little time to actually expend the funds prior to the end of the transition year. All of these factors contributed to a buildup of FY 1983 and PY 1984 Title III funds at the State level which, in turn, prompted the Administration to recommend the rescission of the portion of PY 1985 funds which is not needed to maintain expected 1984 enrollment levels through 1985. Similarly, these unexpended carryover funds will also be used to supplement the $100 million requested for Program Year 1986 to maintain the program at established levels through June 1987.

Question 5(b). If the $26 million for TAA training and job search and relocation allowances is rescinded, how much money would be available under the JTPA for these workers assuming rescission of $119.5 million from the dislocated workers program? What assurance is there that the demand for training by workers under the Federally-administered TAA program with a separate appropriation will be met under the JTPA program apparently underutilized by the States and serving workers dislocated for many reasons other than trade impact?

Answer. The Department expects that little or no differences in the program will occur as a result of shifting the funding to the Tital III National Reserve. The State Employment Security Agencies will continue to administer the program in each State. Procedures to request funds are being established which are similar to those previously used by States to request funds. Additional funds set aside from the Secretary's National Reserve will be provided in response to these State requests. States are not expected to absorb the costs of TAA activities using funds previously made available for the Title III Dislocated Worker Assistance Program. The proposed Title III rescission of $119.5 million will not affect DOL's ability to finance TAA training and job search and relocation allowances. The funds to be rescinded are those that would have been available for obligation on July 1, 1985, the start of JTPA's Program Year 1985. Through June 30, 1985, DOL will rely upon uncommitted Program Year 1984 Title III National Reserve funds. At present, the uncommitted balance in this account is approximately $35 million or about 40 percent more than the TAA amount proposed for rescission. On July 1, 1985, the Program Year 1985 Title III National Reserve of $25.8 million will become available. This should be more than sufficient to finance any requests for additional TAA funds which are received beyond July.

Question 6(a). Has the Federal Government issued regulations or other guidelines to the States on the criteria to be used in accepting workers and the types of programs to be established and assistance granted under the dislocated worker program as acceptable use of the Federal funds? If so, please provide a copy. What type of Federal oversight is maintained of the program?

Answer. For the formula-allocated program under Title III of the Job Training Partnership Act, the Act and regulations provide basic guidance (a copy of Title III regulations is attached). The States have wide latitude in tailoring programs to meet the specific needs of dislocated workers in their jurisdictions.

With respect to the national reserve account, in addition to the Act and regulations, the Department of Labor has issued to the States the procedures to be followed in applying to the Secretary for special funds. A copy of the procedures for applying for Program Year 1984 funds is attached. These procedures explain both what information must be provided in applying for reserved funds and the criteria the Department will utilize in evaluating proposals.

With respect to oversight, the States are responsible for monitoring performance of subgrantees under Title III of the Act. The Department reviews the State's administration of the Title III program, both with regard to formula allocated funds and Secretary's reserve funds which have been provided to the State. The Department of Labor Regional Offices have the responsibility for conducting oversight of States' JTPA operations, using compliance review guides that have been developed for this purpose. A copy of the compliance review guide for the Title III program is attached.

[From the Federal Register, Vol. 48, No. 51, Tuesday, Mar. 15, 1983]

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

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Authority: Job Training Partnership Act. Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

SUBPART A—GENERAL PROVISIONS

§ 631.1 Scope and purpose

This part contains the regulations governing programs designed to serve dislocated workers as authorized under Title III of the Act. Programs are operated pursuant to two allotments: (a) at least 75 percent of the funds appropriated for Title III shall be allotted by formula to the Governors; and (b) up to 25 percent of the funds appropriated for Title III may be reserved for distribution to Governors at the Secretary's discretion. Planning, application and other requirements applicable to formula funded programs are set forth in Subpart B of this Part. Requirements applicable to discretionary programs are set forth in Subpart C of this Part. Program design and management requirements applicable to all programs operated under Title III of the Act are set forth in Subpart D of this Part.

SUBPART E—FORMULA ALLOCATED PROGRAMS

§ 631.11 General

(a) The Secretary shall allot at least 75 percent of the funds appropriated for Title III among the States pursuant to the formula in Section 301(b) of the Act.

(b) The allotment for the Virgin Islands, Guam, the Northern Mariana Islands, American Somoa and the Trust Territory of the Pacific Islands shall be based on the following computation: Allotments for these areas, pursuant to Section 201(a) of the Act, as a proportion of total allotments pursuant to Section 201 of the Act, applied to total funds available for allotment, pursuant to Section 301(b) of the Act.

§ 631.12 State plan

(a) To receive financial assistance for formula allocated programs under Title III of the Act, the Governor shall include in the Governor's coordination and special services plan, submitted pursuant to Section 121 of the Act, a statement of intent to operate programs in compliance with matching provisions of Section 304 of the Act.

(b) If the Governor has stated, pursuant to paragraph (a) of this section an intent to operate formula allocated programs under Title III and subsequently determines not to operate such programs during the period covered by the governors coordination and special services plan, the Governor shall notify the Secretary of such a determination in writing on a timely basis.

§ 631.13 Limitations on use of funds

(a) Subject to paragraph (b) of this section no more than 15 percent of the funds allotted pursuant to Section 301(b) of the Act may be used for administrative costs. In addition, the total of administrative costs and participant support costs may not exceed 30 percent (Sec. 307(a)).

(b) These limitations apply to that amount of Federal funds which is equivalent to no more than 50 percent of the total combined amount of Federal and non-Federal funds allotted to the formula funded State programs (Sec. 307(b)).

§ 631.14 Matching funds

To qualify for financial assistance under Title III of the Act, the Governor shall provide matching funds pursuant to Section 304 of the Act as defined at § 629.40 of these regulations.

SUBPART C—DISCRETIONARY PROGRAM

§ 631.21 General

Of the funds appropriated for Title III, up to 25 percent may be awarded to Governors submitting applications for such funds based upon selection criteria determined by the Secretary pursuant to the provisions of this subpart.

§ 631.22 Eligibility for funding

The Secretary shall make available to Governors funds reserved under Section 301(a) of the Act to serve individuals who are affected by mass layoffs, natural disasters, Federal Government actions (such as relocations of Federal facilities), high unemployment areas or designated enterprise zones. These circumstances must be sufficiently severe so that:

(a) The needs cannot be met by other JTPA programs or other State and local programs; and

(b) A substantial number of individuals concentrated in a labor market area or industry is affected.

§ 631.23 Application for funding and selection criteria

To qualify for consideration for funding under this subpart, Governors shall submit applications to the Secretary pursuant to instructions issued by the Secretary on an annual basis specifying application procedures, selection criteria, and approval process.

SUBPART D—PROGRAM DESIGN AND MANAGEMENT

§ 631.31 Allowable activities, coordination and consultation, planning and review

(a) Allowable activities are specified in Section 303 of the Act. They shall be coordinated with other programs in accordance with Section 308 of the Act. Affected labor organizations shall be consulted pursuant to Section 306 of the Act.

(b) Governors shall involve appropriate PICs and local elected officials in planning and providing opportunities for review in accordance with Sections 302 and 305 of the Act.

§ 631.32 Reallotment of funds based on non-utilization

(a) The Secretary may reallot any amount of any allotment under this part to the extent that it is determined that the Governor will not be able to obligate such amount within one year of allotment (Sec. 301(d)).

(b) When the Secretary determines that a reallotment from a Governor is appropriate, the Governor and the general public shall be given a notice of the proposed action to remove funds. Such notice shall include specific reasons for the actions being taken and shall invite the Governor and the general public to submit comments on the proposed reallotment of funds. These comments shall be submitted to the Secretary within 30 days from the date of the notice. After considering any comments received, the Secretary shall notify the Governor of any decision to reallot funds.

(c) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Grievances, Investigations and Hearings provisions in Part 629, Subpart D.

(d) The Secretary may reallot funds using:

(1) The formula allocation described at Subpart B of this Part: or

(2) Procedures established in Subpart C of this Part.

§ 631.33 Reporting requirements

The reporting requirements in § 629.36 apply to programs operated under this Part, except that the Secretary may establish special requirements for discretionary programs operated under Subpart C of this Part as part of the annual announcement of fund availability and selection criteria.

§ 631.34 Role of Title III training in determining unemployment benefit eligibility

Whenever training opportunities pursuant to Section 302(c) of the Act are identified, information concerning the opportunities shall be made available to the individuals. Pursuant to Section 302(d) of the Act, the acceptance of training assisted under Title III shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

U.S. Department of Labor, Employment and Training Administration

DIRECTIVE: FIELD MEMORANDUM NO. 129-84

To: All regional administrators.
From: Bert Lewis, Administrator, Office of Regional Management.
Subject: Application Procedures for Program Year 1984 Dislocated Worker Funds Reserved by the Secretary.

1. *Purpose.* To advise Regional Offices of the application procedures for Program Year 1984 dislocated worker projects to be supported with funds reserved by the Secretary pursuant to Section 301(a) of the Job Training Partnership Act (JTPA).

2. *Background.* The appropriation for Title III of JTPA for Program Year 1984 is $223 million. Of this total, $167.25 million has been allotted by formula, as prescribed in Section 301(b) of the Act, and $55.75 million has been reserved pursuant to Section 301(c) of the Act. The Program Year 1984 application procedures for these reserved Title III funds are basically the same as those used during the 9-month transition period.

3. *Procedures.* Proposals must be submitted to the Department by the State. They must describe in some degree of detail the severity of the need of a particular geographic location for the additional funds; the specific clientele to be served; and the types of services to be provided, including the specific occupations for which training will be provided. They must also provide an adequate budget prepared with some degree of detail. There is no requirement for matching funds reserved by the Secretary.

4. *State Assurance.* In the letter transmitting the proposal, a paragraph should be included providing assurance that, if the proposed project is funded, any Title III funds awarded from funds reserved by the Secretary will be administered in general accordance with the proposal submitted and consistent with the letter signed by the Department of Labor Grant Officer accompanying the grant award.

5. *Timeframes.* Generally, States may expect a response to a proposal within 60 days of the Department's receipt of the proposal. Proposals will be considered on a timely basis, with the review panel meeting no less frequently than once a month and more frequently in cases of pressing need. The funds that have been reserved by the Secretary will be managed so as to maintain availability throughout the Program Year, thereby assuring the Secretary's ability to respond as contemplated in Section 301(c) of the Act.

6. *Grant Awards.* For Program Year 1984, a separate grant will not be awarded for each approved proposal. Instead, upon approval, a Notice of Obligation (NOO) will be sent to the State increasing the State's Title III formula allotment pursuant to the Governor/Secretary Agreement. The proposal will no longer be considered as a work statement for the allotment of funds. A letter from the Grant Officer containing the general specifications expected as a condition of the grant award will accompany the NOO. This letter, and the State's assurance in the transmittal letter, will constitute the documentation necessary for the allotment of the funds.

7. *Monitoring and Reporting.* With the elimination of separate grants for projects supported with funds reserved by the Secretary, Regional Offices will not be expected to conduct separate compliance reviews for projects funded with Program Year 1984 funds, nor will separate reporting on these funds be required of the States. The States will be responsible for monitoring the projects to ensure compliance with the Act and the regulations. As in the case of other compliance matters, the Department will review the State's administration of these monies.

Regional staff should continue to review those projects funded in Fiscal Year 1983 and the 9-month transition period until otherwise notified.

8. *Copy of State JTPA Liaison Correspondence.* For your information, I am attaching a copy of the correspondence forwarded to the State JTPA liaisons advising them of the availability of these funds and the procedures to follow in applying for these funds.

9. *Action Required.* All appropriate Regional Office staff should be advised of the information contained in this FM. Regional staff should be prepared to provide appropriate assistance and respond to any questions concerning procedures.

10. *Inquiries.* Questions concerning this FM should be addressed to Joan Burchell or Margie Maith at 8-376-2572.

11. *Attachment.* a. Training and Employment Information Notice.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT INFORMATION NOTICE NO. 10-84

To: All State JTPA liaisons.
From: Patrick J. O'Keefe, Deputy Assistant Secretary for Employment and Training.
Subject: Application Procedures for Program Year 1984 Dislocated Worker Funds Reserved by the Secretary.

1. *Purpose.* To transmit to State JTPA liaisons application procedures for Program Year 1984 dislocated worker projects to be supported with funds reserved pursuant to Section 301(a) of the Job Training Partnership Act.

2. *Background.* The appropriation for Title III of JTPA for Program Year 1984 is $223 million. Of this total, $167.25 million has been allotted by formula, as pre-

scribed in Section 301(b) of the Act, and $55.75 million has been reserved pursuant to Section 301(c) of the Act.

Pursuant to Section 301(c), the funds reserved by the Secretary must be used to serve individuals who are affected by mass layoffs, natural disasters, Federal Government actions, or who reside in areas of high unemployment or federally designated enterprise zones. Since these funds are appropriated under Title III of JTPA, the projects operated with these funds are subject to the provisions of the Act and Federal regulations promulgated under the Act.

3. *Application Procedures.* To apply for these funds, applications for individual projects should follow guidelines contained in Attachment I. There is no requirement for matching these funds. States are encouraged to apply additional factors consistent with these requirements; e.g., conformity with the Governor's coordination criteria, documentation of fiscal responsibility, etc. Proposals submitted by the State should be reviewed to ensure that the application guidelines have been met. Applications should be sent by certified mail, return receipt requested, to the address contained in Attachment I.

4. *State Assurance.* In the Governor's letter transmitting the proposal, a paragraph should be included providing assurance that, if the proposed project is funded, any Title III funds awarded from funds reserved by the Secretary will be administered in general accordance with the proposal submitted and consistent with the letter signed by the Department of Labor Grant Officer accompanying the grant award.

5. *Other Information.* Proposals will be accepted for the 1984 Program Year beginning with the date of publication of this Information Notice. The funds that have been reserved by the Secretary will be managed so as to maintain availability throughout the Program Year, thereby assuring the Secretary's ability to respond as contemplated in Section 301(c) of the Act.

The length of the proposals should be limited; a succinct proposal covering the pertinent areas in sufficient detail can be accomplished in 10 pages. Even the most complex and extensive program strategies should be presented in 20 pages or less.

The proposals should describe in some degree of detail the severity of need of a particular geographic location for the additional funds; specific clientele to be served, and the types of services to be provided, including the specific occupations for which training will be provided. Projects should generally cover no more than 1 year. They must also provide an adequate budget prepared with some degree of detail.

The application procedures and the selection criteria are essentially the same as those used during the 9-month transition period. Some clarifying changes were made.

All applications must be submitted by the State. Applications not developed directly by the State agency administering JTPA should be reviewed by the appropriate service delivery area Private Industry Council, chief elected officials and administrative entities. When a multi-State project is proposed, one State may serve as the primary applicant; however, the Governors of each of the States to be involved in the project must provide endorsements to indicate review of the proposal.

6. *Proposal Review.* Proposals will be reviewed and approved or rejected based upon the application of the selection criteria contained in Attachment II. Proposals will be considered on a timely basis, and a response may be expected within 60 days of the Department's receipt of the proposal. The review panel will meet no less frequently than once a month, and more frequently in cases of pressing need.

Generally, the Department will not be inclined to refund a proposal approved during a previous funding cycle. Additionally, projects previously funded by the State with formula-allotted monies will generally not receive favorable consideration.

7. *Funding Mechanism.* In the past, separate grants have been issued for approved Title III projects. For Program Year 1984, the Department will issue a Notice of Obligation (NOO) to the State and an allocation supplement will be made to the State's Title III formula-allotted grant, pursuant to the Governor/Secretary Agreement. The proposal will no longer be considered as a work statement for the allotment of funds; rather, a letter containing the general specifications expected as a condition of the grant award will accompany the NOO.

8. *Project Oversight.* The State will be responsible for monitoring the project to ensure its compliance with the Act and the regulations. As in the case of other compliance matters, the Department will review the State's administration of these monies.

9. *Inquiries.* Should you have any questions concerning these procedures, assistance may be obtained by calling Robert N. Colombo, Director, Office of Employment and Training Programs, at (202) 376-6093.

10. *Attachments.* I. Application Guidelines for Dislocated Worker Program Funds Reserved by the Secretary; II. Selection Criteria for Dislocated Worker Program Funds Reserved by the Secretary.

[Attachment I]

APPLICATION GUIDELINES FOR JOB TRAINING PARTNERSHIP ACT [JTPA] DISLOCATED WORKER PROGRAMS SUPPORTED BY FUNDS RESERVED BY THE SECRETARY

BACKGROUND AND PURPOSE

The Secretary of Labor may reserve up to 25 percent of the funds appropriated by Congress for dislocated worker programs authorized under Title III of JTPA. These funds are to be awarded to States to provide training, retraining, job search assistance, placement, relocation assistance and other aid to individuals affected by mass layoffs, natural disasters, Federal Government actions or who reside in areas of high unemployment or designated enterprise zones. These circumstances must be sufficiently severe so that (1) the needs cannot be met by other JTPA programs or other State and local programs, and (2) substantial numbers of individuals concentrated in a labor market area or industry are affected. In accordance with the Act and the regulations promulgated under the Act, the Secretary has established the following application procedures and selection criteria for Program Year 1984 Title III Dislocated Worker Programs to be supported with funds reserved by the Secretary pursuant to Section 301(a) of the Act.

APPLICATION PROCEDURES

To apply for JTPA Title III funds reserved by the Secretary, the State should submit applications, in triplicate, for individual projects to the U.S. Department of Labor at the following address: Employment and Training Administration, Grant Officer, Dislocated Worker Program, Room 5002, 601 D STreet, NW., Washington, DC 20213.

A copy of each application should be submitted at the same time to the appropriate regional office.

Applications sent to the Grant Officer should be sent by certified mail, return receipt requested. All applications, including those initiated by the proposed project operator and submitted by the Governor, should follow the guidelines contained in this announcement. All projects funded are subject to the provisions of the Act and the regulations.

In the letter transmitting the proposal, a statement should be included providing assurance that, if the proposed project is funded, any Title III funds awarded from those reserved by the Secretary will be administered in general accordance with the proposal submitted and consistent with the letter signed by the Department of Labor Grant Officer accompanying the grant award.

Time Frames.—Applications for funding may be submitted at any time beginning with the issuance of this document. The funds that have been reserved by the Secretary will be managed so as to maintain availability throughout the program year, thereby assuring the Secretary's ability to respond as contemplated in Section 301(c) of the Act.

Period of Performance.—Applications should cover a period of time generally not to exceed 1 year. Applications for periods in excess of 1 year may be submitted with supporting information.

Application Components.—Applications should, as applicable, address the points listed below.

1. Describe the need for fundng the project and explain how this need was determined. The description should include (a) the unemployment rate for the area to be served, (b) the unemployment rate for the State, (c) the number of individuals affected, (d) the occupations or industries affected, and (e) the number of eligible individuals to participate in the program. While each of these elements is important, specific emphasis should be placed on defining the need precisely; i.e., in terms of specific plants, occupations or geographic areas.

2. Explain why the need cannot be met by existing Federal, State and local resources, including the State's JTPA Title III formula-allotted funds.

3. Discuss how the proposed project relates to overall activities planned in the State and explain how the proposed project is related to formula-funded dislocated worker program activities.

4. Identify the occupations in which participants will be trained or retrained and provide the types and length of training for each occupation. Explain how the potential for placements in those occupational areas was determined, including information regarding specific employers or industries that have demands for workers in those occupational areas.

5. Describe activities to be conducted, including:

a. a description of the training activities and supportive services to be provided;

b. a description of job search assistance, counseling, job development and placement services and how these services will be coordinated with training activities;

c. the number of eligible participants to be served in each activity; and

d. the costs associated with each of these activities. Activities authorized are discussed in Title III of the Act and the regulations promulgated pursuant to the Act.

6. Describe the projected results expected from each of the activities to be conducted, including the estimated number of participants to be placed in unsubsidized employment, the cost per participant, the cost per placement, and the planned placement rate.

7. Provide a description of the fiscal and managment capabilities of the entity that will administer the proposed project.

8. Provide a plan for coordination with appropriate private industry councils (PICs) and chief elected officials (CEOs), and describe linkages with other employment and training-related programs, with the employer community, and, where applicable, labor organizations. Applications not developed directly by the State agency administering JTPA should be reviewed by the appropriate service delivery area PIC, CEOs and administrative entities.

9. Include a detailed budget, grouping line items under training, participant support and administration cost categories. In transmitting the proposal, the Governor certifies that the proposed budget conforms to the cost classifications established by the State, and assumes liability for expenditures pursuant to the budget, if the grant is awarded, subject to the provisions of Section 164(e)(2) of the Act. Addititionally, the Governor certifies that matching funds offered, if any, correspond to the definitions promulgated by the Governor pursuant to Section 629.40 of the JTPA regulations.

10. Provide the name, address and telephone number of the responsible State official to contact regarding the proposal. As appropriate, also provide this informaiton for responsible local officials.

[Attachment II]

SELECTION CRITERIA FOR DISLOCATED WORKER PROGRAMS SUPPORTED BY FUNDS RESERVED BY THE SECRETARY

Dislocated worker program funds reserved by the Secretary pursuant to Section 301(a) of JTPA shall be used to serve individuals who are affected by mass layoffs, natural disasters, Federal Government actions or who reside in high unemployment areas or designated enterprise zones (cf., 301(c) of the Act). In addition to meeting these basic conditions, the applications will be reviewed and evaluated using the following factors:

1. Severity of the circumstances of need as described in the grant application (such as the number of individuals affected, the local and State unemployment rates compared to the national rate and the projected short- and long-term effect on unemployment).

2. Concentration of the eligible individuals (cf., Section 302 of the Act) in a particular occupation, plant, industry or geographic area.

3. Coordination and linkages with existing Federal, State or local programs, including the State's Title III formula-funded programs.

4. Services to be provided and service mix, to include specificity of occupations in which retraining will occur and, to the extent possible, evidence that demand for these retrained workers exists in the training locale.

5. Assurance of project operator's fiscal and program management capabilities to administer the programs.

6. Cost effectiveness of the plan, e.g., cost per participant, cost per placement, and cost per activity. Level of funding dedicated to client services as opposed to staff support and administration.

JOB TRAINING PARTNERSHIP ACT—FEDERAL COMPLIANCE REVIEW GUIDE—TITLE III FORMULA PROGRAMS

Employment and Training Administration, July 1984

This guide is intended for use by Federal staff in reviewing JTPA Title III Formula Programs. The guide should be used as a tool by Federal staff to focus the Title III Formula Program Review on critical facts and information.

The guide has been designed to target field work to specific oversight responsibilities of ETA. The guide is not a survey instrument. Rather federal staff are to obtain sufficient factual information while on site to enable the reviewer to respond to the issues raised in the guide.

Information should be obtained by Federal staff based on examination of documents, reports and records; direct observation; and discussions with key State and subgrantee personnel responsible for Title III Formula Programs. As a convenience to Federal staff, space has been provided for recording information directly in the guide in a structural manner. In no case should State personnel be requested to complete forms or questions contained in this guide.

PART I: GUIDELINES FOR CONDUCTING THE REVIEW

A. Introduction

Under title III of JTPA (Assistance for Dislocated Workers), funds are provided to States on a discretionary as well as a formula basis. Due to the diverse nature of the administration of the two types of programs, a separate compliance review guide has been developed for each. This guide is designed to review programs that States are operating with formula allotted funds.

States are given a much greater degree of discretion in the structure and operation of Title III programs than they have under Titles I and II. Most significantly, there is no substate presumptive grantee, as there is in Titles I and II and no requirement that programs be operated on a statewide basis. Many of the guidelines and limitations that govern Title II activities are not applicable to the dislocated worker programs. Title III also includes a number of requirements that are unique to the program including matching provisions, and consultation requirements.

This review therefore focuses primarily on the aspects of Title III formula programs that differentiate them from other JTPA activities. Many of the general program requirements for all activities are covered in other guides although several of these, such as oversight responsibility, are addressed in a more defined context in this review.

As with all Federal JTPA compliance reviews, the intent is to determine if State systems and programs are conducted consistent with Federal law and regulations. Subjective judgements concerning approach and content are inappropriate. Federal reviewers should view this compliance review activity in the context of the entire information collection strategy for JTPA. This strategy calls for program process and output evaluation through various means, including performance standards, the Westat JTPA evaluation and the Job Training Longitudinal Survey (JTES).

The Federal reviewer must approach this review with flexibility. State organization and assignment of responsibilities related to Title III programs will vary widely. Inquiries must be made as to how each State program is structured. Of course, after some experience in monitoring States, Federal reviewers will have at hand needed information on organization and assignment of responbility and will need only to confirm that it is current. Beyond variations in organizational structure, the reviewer must keep in mind, that while JTPA assumes that eligibility determination and verification systems will be developed at the SDA level (Section 104(b)), the State may opt to impose a statewide system.

II. Summary Findings and Recommendations

This section is intended as an executive summary. It should briefly list, without supporting analysis and documentation, the key overall findings and recommendations. The findings should page-reference detailed supporting information contained elsewhere in the report.

A. Requirements (or program areas, functional areas) for which compliance does not appear to be a problem.

B. Requirements that appear to need attention/improvement and recommendations for each.

III. State Level Findings

First, briefly list positive findings and then describe findings that indicate compliance problems. Findings described should be only for statutory and regulatory requirements which are *cited*. Where noncompliance is an issue, a recommendation should be provided.

IV. Substate Level Findings (If applicable)

Describe findings for each substate entity/location. As in III above, briefly list positive findings and then describe findings that indicate compliance problems.

Exhibits

Attach detailed data and analyses, if too lengthy or technical to be used in the main body of the report.

The report should then be cleared, as provided for in Field Memorandum No. 81-84.

Note that if a problem is surfaced that involves possible fraud, misfeasance, and nonfeasance or malfeasance, misapplication of funds, gross mismanagement, employee/participant misconduct or other criminal activities, the Regional Office should immediately prepare an Incident Report (Form DL 1-156) and deliver it to the OIG Regional Inspector General for Investigation as directed by ETO No. 3-84.

2. *Followup as necessary.*—The Region should followup by providing technical assistance or by further compliance reviews to assure that deficiencies are corrected.

PART II: STATE LEVEL REVIEW

A. Onsite discussion

This section involves a discussion with a State level official to obtain an overview of the State's administration of title III programs. Due to the considerable flexibility provided to States, it is important to establish at the outset the programmatic structure prior to formating the remainder of the review.

1. Describe the types of entities operating Title III formula programs in the State—are these SDAs, unions, CBOs, educational institutions? (Background)

2. Briefly describe the State administrative structure responsible for Title III programs. Is this a single agency, or is there a division of authority? How is responsibility divided? (Background)

3. What mechanism or procedure has the State used to distribute the funds? Is this based on formula, RFPs, sole source, award, or combination? (Background)

4. What is the procurement mechanism (grant, contract, interagency agreement, etc.)?

5. Of the total funds allotted for the current program year, how much had been obligated at the time of this review? (Background)

$——— of $———. Which is ——— percent.

6. What role has the SJTCC played in planning resource allocations for the Title III program? (Section 122(b)(2))

7. Are programs operated on a statewide or industrywide basis? If no, for programs other than these, how does the State assure PIC and Local Elected Official (LEO) review and recommendations before granting final approval? (Section 305 and 20 CFR 631.31(b))

8. Has final approval been granted for any programs contrary to PIC and LEO approval recommendation?

Yes ———. No ———.

If so, did the State provide the reason to the PIC and LEO? Reviewer should obtain copies of these for later verification. (Section 305)

9. Are any programs providing services to a substantial number of members of a labor organization?

Yes ———. No ———.

If so, what type of consultation occurred with the labor organization? Reviewer request verification of this if available. (Section 306 and 20 CFR 631.31(a))

10. What match amount is required for the current year's Title III allotment to the State? (Section 304(a) and 20 CFR 631.14(a))

11. What steps has the Governor taken to assure the provision of adequate resources to meet the matching requirements? What documentation for this is available? (Section 304(a) and 20 CFR 629.40 and 631.14(a))

12. What policy has been established by the Governor to define what resources are applicable toward the matching requirement? (20 CFR 629.40)

13. Describe the nature of the match to establish whether it is from a public or private non-Federal source? (Section 304(a))

14. Is the State counting Unemployment Insurance Benefits paid to participants during the time of enrollment as part of the matching funds? (Section 304(b)(2))

Yes ———. No ———.

If Yes — $——— of $——— (total match).

Which is ——— percent of the total match.

15. Has the State established procedures to identify substantial groups of eligible individuals? (Section 302(a))

a. Those who have been terminated or laid off or who have received a notice of termination of layoff from employment are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation. Describe.

b. Those who have been terminated or who have received a notice of termination of employment as a result of any permanent closure of a plant or facility. Describe.

c. Those who are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any other older individuals who may have substantial barriers to employment by reason of age. Describe.

d. If the State has no procedures, who is identifying these groups and what procedures are being used? (Section 302(a))

16. The law provides that the State may use the PIC to assist in identifying groups of eligible individuals. Has the State utilized PICs in this fashion? (Section 302(b) and 20 CFR 631.31(b))

17. How has the State determined what opportunities exist for each group of eligible individuals identified? (Section 302(c)(1))

18. How has the State involved the PIC in this determination? (Section 302(c)(1) and 20 CFR 631.31(b))

19. How has this information been made available to the eligible individuals? (Section 302(d))

20. Does the State UI law provide that acceptance of Title III training constitutes acceptance of approved training permitting retention of UI benefits? (Section 302(d) and 20 CFR 631.34)

21. What policy has the State established concerning relocation assistance? Does this limit assistance to individuals who cannot obtain employment within their commuting area and who have secured long duration of a bona fide job offer? (Section 303(b))

22. What performance standards has the State established? Are these based on placement and retention in unsubsidized employment? (Section 106(g))

23. How does the State monitor Title III programs? (Who is responsible? How often? Is a standardized instrument used?) (Section 164(e)(2))

24. Are monitoring reports available? (Any written reports should be rquested for later review.) (Section 164(e)(2))

25. What type of followup is conducted? Does this include corrective action when required? (Section 164(e)(2))

26. How does the State monitor the expenditure rate of funds at the subgrantee level? (20 CFR 629.31(b)

27. Has the Governor established a system for reallocation of any allotments which will not be utilized or expended within the grant/contract period? (Section 301(d))

Yes ———. No ———.

If yes, please describe.

B. Document review

This section reviews a variety of documents which should be available at the State level to verify information on state policies which have been discussed in the preceding section. This will require copies of the following documents, most of which should be made available in response to discussion topics.

In order to facilitate the subgrantee review, materials related to subgrantees which will be visited should be included in this review. Documentation of the contract or agreement between the state and program operator to be visited which describes the types of activities or services to be provided should also be reviewed at this point in order to determine during the subgrantee level review that these services are being provided.

1. Documentation of PIC-LEO review and recommendations on projects.
2. Rationale provided to PIC's and LEO's when recommendations are overruled.
3. Documentation concerning consultation with labor groups.
4. For groups of eligible workers identified documentation of:
   a. Availability of job opportunities;
   b. PIC involvement in identification;
   c. Availability of information to workers.
5. Documentation of resource for match, including:
   a. Definition of resources;
   b. Assurances of adequacy of amount.
6. Documentation of monitoring process, including evidence of:
   a. Adequacy of coverage;
   b. comprehensive tool;
   c. Reports, recommendations, corrective action and followup.
7. State—subgrantee agreement for program operators to be reviewed which describes services.

COORDINATING/CONSULTATION REQUIREMENTS WORKSHEET

Project name:

1. Is there evidence that PICs/LEOs were given a 30-day review period—this is not required for statewide or industrywide programs? (Section 305)
2. Is there documentation that the PIC/LEO made a recommendation? (Section 305)
3. If the State made a decison contrary to the PIC/LEO recommendation, is a written rationale provided to the PIC/LEO? (Section 305)
4. If the program would provide services to a substantial number of members of a labor organization, describe how consultation with this group is documented. (Section 306)
5. What evidence is there that the project will serve a group of eligible individuals that the State has identified? (Section 302(c))
6. What information is available concerning job opportunities for which the group of eligible individuals may be trained? (Section 302(c))
7. How has information about training opportunities been made available to the group of eligible individuals? (Section 302(d))

MATCHING REQUIREMENTS WORKSHEET

This document review is intended to establish that the State has developed a policy to define and value matching resources and to establish that a tracking mechanism exists to ensure the adequacy of the match. An in-depth review of specific elements of resource valuation and amounts will be undertaken in an audit.

1. Describe the written State policy concerning: (Section 304(a) and 20 CFR 629.40)
   a. Definition of suitable match resources (i.e., personnel services, facilities, equipment).
   b. Valuation of these resources.
2. Describe the system use to track matching resources to assure the level is adequate the meet Federal funding. (Section 304(a) and 20 CFR 629.40)

MONITORING WORKSHEET

1. How does the State monitoring policy require that all projects be reviewed on a regular basis? What documentation supports this? (Section 164(e))
2. Is there evidence that a standard monitoring methodology has been used? (Section 164(e))
3. Are reports of findings available which show that: (Section 164(e))
   a. Monitoring was conducted?
   b. The state has monitoried subgrantees to ensure that services are being provided in accordance with the grant, contract or other type of agreement?
   c. Deficiencies were identified?
   d. Corrective actions required on a timely basis?
   e. Followup was conducted to assure corrective actions were implemented?

PART III: SUBGRANTEE REVIEW

This part of the review examines the operation of programs at the subgrantee level to determine that:

1. Activities and services are consistent with those enumerated in the State-subgrantee agreement.

2. Appropriate PIC/LEO consultation has been conducted, if this cannot be adequately documented at the State level.

3. Consultation with labor organizations was done if documentation is inadequate at State level.

4. An assessment of job opportunities for eligible individuals was made in consultation with the local PIC.

5. Information on job opportunities was made available to eligible individuals.

6. Appropriate eligibility determination and verification procedures are in place.

7. Relocation assistance is limited to appropriate instances.

8. Matching resources are being appropriately defined and tracked, if this responsibility is delegated to the subgrantee level.

9. Monitoring by the State has been followed-up to ensure corrective actions are taken when necessary.

This information is to be obtained using both onsite discussions and document review. The first section requires a discussion with subgrantee and/or PIC/LEO officials. The second section entails documentation review.

The Federal reviewer must review and amend the discussion topics before going onsite, to reflect the following:

1. The nature of the subgrantee. If the subgrantee is a PIC/LEO, some of the topics may require some rewording. As presented here the discussion topics assume the subgrantee is an entity other than the PIC/LEO, and therefore coordination issues are of concern.

2. What process was used to identify eligible groups of individuals, to be served by this project? (Note: This response should be compared with State policy outlined in Question 15 of Part II.) (Section 302(a))

Obtain documentation if available.

3. How was the PIC involved in determining what job opportunities exist for individuals to be retrained? (Section 302(c))

Obtain documentation if available.

4. How was information on training opportunities made available to eligible individuals? (Section 302(d))

Obtain documentation if available.

5. (Discuss only if—the program is not operated statewide or on an industry basis or if State level documentation was inadequate.)

a. How were the PIC and LEO involved in reviewing and making recommendations concerning this program? (Section 305)

Obtain documentation if available.

b. What recommendation was made by the PIC/LEO?

6. (Complete only if documentation at State level is inadequate.) Are services being provided to substantial numbers of the members of a labor organization? If yes, what type of consultation took place with the labor organization prior to the start of the program? (Section 306 and 20 CFR 631.31(a))

Obtain documentation if available.

7. What responsibility, if any, is given to the subgrantee in providing and tracking the match? (Background)

8. If the subgrantee is responsible for the match, what resource is it providing and how is this tracked to ensure that the level provided is adequate? (20 CFR 629.40)

9. When did the State last monitor this project? Were findings made available? (Section 164(e))

10. (Discuss the findings shown in State documentation of monitoring prior to the next question.)

What corrective action has occurred as a result of the monitoring? (Section 164(e))

11. How has it been demonstrated to the State that corrective action has been taken? (Section 164(e))

The remainder of the discussion topics are related to eligibility determination and validation. This requires discussions with individual(s) responsible for this process.

12. What standards are used in determining eligibility for this program? (Section 302(a))

13. What information is collected from applicants to determine if these standards are met? (Reviewer Note: Obtain an application form and explanation of how it is completed.) (Section 302(a))

14. How is the eligibility information collected verified? (Section 302(a) and 20 CFR 629.35(c))

B. Document review

1. Consultative/coordinative worksheet

a. Does available documentation demonstrate that there was PIC/LEO involvement in identifying eligible groups and reviewing and making recommendations concerning the program? *(Sections 302 and 305 and 20 CFR 631.31(b))*

b. Does available documentation show that labor organizations were consulted if this is required for the project? Describe. *(Section 306 and 20 CFR 631.31(a))*

c. How is the availability of information concerning retraining opportunities for eligible individuals documented? *(Section 302(c))*

2. Title III eligibility review

a. Select a sample of participant records, using the sampling guidance in Appendix III. Review these records using the attached worksheet—"Title III Record Eligibility Review Worksheet." Summarize the findings below:

(1) Do the records show a consistent pattern of comprehensive information gathering?

(2) Is there an indication that attempts have been made to adequately verify eligibility data?

(3) Are there any ineligible or questionable participants according to the records reviewed? If so, what is the magnitude (— of — records reviews, or — percent).

Note that an individual may be eligible by meeting the criteria in either (i) (ii), or (iii) below; it is not required that individuals meet all three requirements.

PARTICIPANT RECORD ELIGIBILITY REVIEW WORKSHEET

Program

Is sufficient data entered to make an eligibility determination? If no—Explain.

Is the eligibility determination made accurate, according to the applicable criteria?

Is there evidence that the information has been validated?

(i) terminated or laid off or received a notice of termination or lay-off from employment, eligible for or exhausted entitlement to unemployment compensation, and unlikely to return to previous industry or occupation;

(ii) terminated, or received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or

(iii) long-term unemployed with limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age;

(iv) Citizen/Alien Status.

[Appendix I]

EXCERPTS ON TITLE III FROM JTPA AND REGULATIONS

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 302. (a) Each State is authorized to establish procedures to identify substantial groups of eligible individuals who—

(1) have been terminated or laid-off or who have received a notice of termination or lay-off from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plan or facility; or

(3) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of eligible individuals is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market areas or outside the labor market area for which such individuals could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the local labor market area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to the individuals. The acceptance of training for such opportunities shall be deemed to be acceptance of training with the approval; of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

AUTHORIZED ACTIVITIES

SEC. 303. (a) Financial assistance provided to State under this title may be used to assist eligible individuals to obtain unsubsidized employment through training and related employment services which may include, but are not limited to—

(1) Job search assistance, including job clubs,

(2) job development,

(3) training in jobs skills for which demand exceeds supply,

(4) supportive services, including commuting assistance and financial and personal counseling,

(5) pre-layoff assistance,

(6) relocation assistance, and

(7) programs conducted in cooperaton with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(b) Relocation assistance may be provided if the State determines (1) that the individual cannot obtain employment within the individual's commuting area, and (2) that the individual has secured suitable long-duration employment or obtained a bona fide job offer in a relocation area in a State.

MATCHING REQUIREMENT

SEC. 304. (a)(1) In order to qualify for financial assistance under this title, a State shall demonstrate, to the satisfaction of the Secretary, that it will expend for purposes of services assisted under this title, an amount from public or private non-Federal sources equal to the amount made available to that State under section 301(b).

(2) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the non-Federal matching funds described in paragraph (1) required to be provided by such State for that fiscal year shall be reduced by 10 percent for each 1 percent, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(3) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all States for each fiscal year on the basis of the most recent twelve-month period prior to that fiscal year.

(b)(1) Such non-Federal matching funds shall include the direct cost of employment or training services under this title provided by State or local programs (such s vocational education), private nonprofit organizations, or private for-profit employers.

(2) Funds expended from a State fund to provide unemployment insurance benefits to an eligible individual for purposes of this title and who is enrolled in a program of training or retraining under this title may be credited for up to 50 percent of the funds required to be expended from non-Federal sources as required by this section.

PROGRAM REVIEW

SEC. 305. Except for programs of assistance operated on a statewide or industry-wide basis, no program of assistance conducted with funds made available under this title may be operated within any service delivery area without a 30-day period for review and recommendation by the private industry council and appropriate chief elected official or officials for such area. The State shall consider the recommendation of such private industry council and chief elected official or officials before granting final approval of such program, and in the event final approval is granted contrary to such recommendation, the State shall provide the reasons therefor in writing to the appropriate private industry council and chief elected official or officials.

CONSULTATION WITH LABOR ORGANIZATIONS

SEC. 306. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization.

LIMITATIONS

SEC. 307. (a) Except as provided in subsection (b), there shall be available for supportive services, wages, allowances, stipends, and costs of administration, not more than 30 percent of the Federal funds available under this title in each State.

(b) The funds to which the limitation described in subsection (a) applies shall not include the funds referred to in section (a). In no event shall such limitation apply to more than 50 percent of the total amount of Federal and non-Federal funds available to a program.

STATE PLANS; COORDINATION WITH OTHER PROGRAMS

SEC. 308. Any State which desires to receive financial assistance under this title shall submit to the Secretary a plan for the use of such assistance which shall include appropriate provisions for the coordination of programs conducted with such assistance, as described in section 121, low-income weatherization and other energy conservation programs, and social services.

MATCHING FUNDS

SEC. 631.14. To qualify for financial assistance under Title III of the Act, the Governor shall provide matching funds pursuant to Section 304 of the Act as defined at Section 629.40 of these regulations.

20 CFR 629.40. The Governor shall define and assure the provision of adquate resources to meet the matching requirements of Section 123(b) and 304 of the Act.

SUBPART D—PROGRAM DESIGN AND MANAGEMENT

SEC. 631.31. Allowable activities, coordination and consultation, planning and review. (a) Allowable activities are specified in Section 303 of the Act. They shall be coordinated with other programs in accordance with Section 308 of the Act. Affected labor organizations shall be consulted pursuant to Section 306 of the Act.

(b) Governors shall involve appropriate PICs and local elected officials in planning and providing opportunities for review in accordance with Sections 302 and 305 of the Act.

SEC. 631.32. Reallotment of funds based on non-utilization. (a) The Secretary may reallot any amount of any allotment under this Part to the extent that it is determined that the Governor will not be able to obligate such amount within one year of allotment (Sec. 301(d)).

(b) When the Secretary determines that a reallotment from a Governor is appropriate, the Governor and the general public shall be given a notice of the proposed action to remove funds. Such notice shall include specific reasons for the actions being taken and shall invite the Governor and the general public to submit comments on the proposed reallotment of funds. These comments shall be submitted to the Secretary within 30 days from the date of the notice. After considering any comments received, the Secretary shall notify the Governor of any decision to reallot funds.

(c) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Grievances, Investigations and Hearings provisions in Part 629, Subpart D.

(d) The Secretary may reallot funds using:

(1) The formula allocation described at Subpart B of this Part; or

(2) Procedures established in Subpart C of the Part.

SEC. 631.33. Reporting requirements. The reporting requirements in Section 629.36 apply to programs operated under this Part, except that the Secretary may establish special requirements for discretionary programs operated under Subpart C of this Part as part of the annual announcement of fund availability and selection criteria.

SEC. 631.34. Role of Title III training in determining unemployment benefit eligibility. Whenever, training opportunities pursuant to Section 302(c) of the Act are identified, information concerning the opportunities shall be made available to the individuals. Pursuant to Section 302(d) of the Act, the acceptance of training assisted under Title II shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

[Appendix II]

SAMPLE SCHEDULE FOR ONSITE REVIEW OF TITLE III FORMULA PROGRAM

(Assumes one Federal Reviewer)

Day 1

9-10: Introductory Meeting—State Level General Background Topics.
10-12: State Level Onsite Discussion.
1-4: State Level Document Review.

Day 2

9-10: Introductory Meeting—SDA #1.
10-5: Subgrantee #1 Level Review and Exit Meeting

Day 3

9-10: Introductory Meeting—SDA #2.
10-5: Subgrantee #2 Level Review and Exit Meeting.

Day 4

9-11: State Level Exit Meeting.

[Appendix III]

SAMPLING GUIDELINES

Obtaining valid data from the review of a sample is contingent upon several factors outlined below.

1. The sampling universe (or population) must be uniformly defined. For purposes of the review of participant records this should be defined as the total of all participants enrolled in the most recent quarter. If files are not maintained or cannot be organized on this basis the next closest period (i.e. program year) for which they are maintained should be used.

2. The sample size must be sufficient. Sample size required is a function of the universe (or population) which in the case of participants would be the total number of files for the period to be reviewed (as discussed above). The table below shows the size of the sample required for varying universe sizes. The minimum sample size will be 51 except when this exceeds the total. If an accurate determination of the total is unavailable a sample of 67 will suffice.

3. Samples must be randomly chosen. This is the most significant factor in ensuring the internal validity of data. Dividing the total by the sample size and drawing files at this interval will generally result in a random sample.

Table for determining sample size

Total universes	*Sample size*
1 to 200	51
201 to 300	55
301 to 400	58
401 to 500	60
501 to 1000	63
1001 to 1500	65
1501 to 2000	65
2001 to 5000	67
5001 to 10000	67

This table is based on random sampling for attributes where the expected rate of occurrence is not over 20 percent with a confidence level of 90 percent, plus or minus 8 percent.

MONITORING OF JTPA TITLE III DISCRETIONARY DISLOCATED WORKER PROGRAMS

INSTRUCTIONS

A. All JTPA discretionary projects should be reviewed twice a year. The first review should occur no sooner than the fourth month of operation. The second review should occur no later than the tenth month of operation. (The above schedule will not apply to the initial review. All projects which have been in operation for at least three months are to be reviewed during the month of February 1984.)

B. Reviews are to take place at the program operator, except for those areas specifically noted in the monitoring guide.

C. State staff are to be advised prior to each on-site review and are to be invited to accompany regional staff on reviews.

D. When reviewing a discretionary project, the entire project should be reviewed. No attempt should be made to differentiate between federally funded activities and locally funded activities, unless the project operator advises that a particular part of the project is totally funded with non-federal funds. In such circumstances the identified activity should be reviewed only where it specifically impacts on another review area.

E. Multi-State projects should be reviewed by the regional office which oversees the State which signed the discretionary grant. Visits to out-of-State locations should occur only when it is necessary to verify information contained in the report. State staff in each State visited should be notified; however, only the State responsible for the project should be requested to accompany the regional staff person during the review.

F. Reviews of discretionary dislocated worker projects do not include reviews of State administration of the discretionary dislocated worker system.

G. When contacting States to advise them of scheduled visits and to invite participation, regional offices shall advise the States of the procedures which will be followed subsequent to the on-site review. Specificially:

1. At the completion of the visit a report will be prepared by the region and submitted to the DOL National Office.

2. A draft letter to the States containing the findings of the review and any recommendations for corrective actions will also be submitted to the DOL National Office.

3. The report and the recommendation for corrective actions will be reviewed by the DOL National Office and any issues will be followed up on with the State by appropriate DOL Regional or National Office staff.

4. A final decision will then be reached regarding any corrective actions and a letter will be forwarded to the State by the DOL Grant Officer.

5. Corrective actions will be required for any statutory or regulatory problems identified. Corrective actions may be required for other operational problems. Problems which are strictly contractual in nature will be identified without recommendation for correction.

F. Regional offices shall submit to ORM, Attention: TDC within 10 days following the completion of the review the following information:

A copy of the completed report (Attachment No. I).

A draft letter to the State discussing the results of the review. The draft letter should specifically spell out any statutory or regulatory problems identified, and contain recommendations for addressing such problems. See Attachment No. II for a listing of key Title III discretionary statutory requirements.

The draft letter should also specifically point out any contractual problems identified. No recommendations with respect to contractual problem are to be included. The letter should merely indicate that this information is being provided for whatever action is deemed necessary and appropriate by the State.

See Attachment III for a format for the letter to the State.

MONITORING GUIDE

JTPA TITLE III DISCRETIONARY DISLOCATED WORKER PROGRAMS

REPORT AS OF: ________

A. Background (To be completed from approved proposal)

1. ______________________
State

2. ______________________
SDA (if applicable)

3. Project Operator

____

____

____

____

____

____

4. Administering Agency, if Different From Project Operator

____

____

____

5. ______________________
Program Contact Person

____
Telephone

6. ______________________
Regional Contact Person

____
Telephone

7. Name of Project

____

____

8. Funding Level

Discretionary Title III $________

Formula Allotted Title III ________

Other ________

Total $________

8. Total Participants to be Served

____

10. Dislocated Workers to be Served
Types of Industry Affected:

____

____

____

____

11. Dislocated Workers to be Served
Types of Occupations Lost:

____

____

____

____

12. Types of Services to be Provided by Project	13. Types of Occupations in which Retraining will Occur
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________

14. Operational Dates of Project

From: ____________________ To: ____________________

B. Operational Data (to be completed from on-site visit)

1. Is the project operational? Yes ______ No ________

If no, why not? ____

____

____

2. Total participants served to date. ____________________

Total participants currently on-board. ____________________

3. Is the dislocated worker target group the same as that identified in the approved proposal? Yes ______ No _______

If no, why not? ____

____

____

How does it differ from proposal? ____________________

____

4. Are the activities described in the approved proposal being provided? Yes ________ No ________

If no, why not? ____

____

____

How do they differ from the proposal? ____

____

____

NOTE: This item should be verified. Describe below the method used to verify this item and of the results of the verification.

Method ____

____

____

Results ____

____

____

5. Are jobs available for the participants at the conclusion of participation? Yes ________ No ________

If no, why not? ____

____

____

6. Are the participants being retrained in the occupations listed in the proposal? Yes ________ No ________

If no, why not? ____

____

____

How does this differ from the proposal? ____________________

____

____

NOTE: This item should be verified. Describe below the method used to verify this item and the results of the verification.

Method ____

____

____

____

____

Results ____

____

____

____

____

7. For those being retrained, are there jobs in the occupations for which the participants are being retrained?

Yes ________ No ________

If no, why not? ____

____

____

8. Is the program operator planning to ask for a modification to the proposal as a result of any "no's" identified above?

Yes ________ No ________

If no, why not? ______________________________

____

____

9. For all participants who have left the program to date how many:

returned to their jobs? ______________________________

were placed in training-related jobs? ______________________________

were placed in other occupations? ______________________________

did not find employment? ______________________________

Total number terminated to date. ______________________________

Source of above information. ______________________________

10. What kind, if any, of follow-up is planned for participants terminated from the program?

For those obtaining employment ______________________________

____

____

For those not obtaining employment ______________________________

____

____

11. Has there been any publicity on this program of any type, including information regarding simply applying for the program? Yes ________ No ________.

If yes, describe briefly. ______________________________

____

____

____

12. What are total expenditures to date?

Date ____________ $__________ as a percent of

total availability __________ percent.

13. Is the project being coordinated with the:

____ Union Yes ____ No ____

____ Company Yes ____ No ____

____ ES Yes ____ No ____

____ Local Government Yes ____ No ____

____ Other _______ Yes ____ No ____

____ Other JTPA Programs Yes ____ No ____

14. Describe the role played by the PIC with respect to this project. ______________________________________

____

____

____

15. Is the project being operated under a State approved accounting and fiscal system? Yes _______ No _______

If no, why not?___________________________________

____

____

16. What are the major problems encountered to date? ______

______

______

______

______

______

C. Reviewer's Evaluation

1. Provide, in the space below, an overview of this project. Indicate both good points and any problem areas. Problems of a statutory and/or regulatory nature should be specifically identified. Problems of a contractual nature should also be identified separately.

______

______

______

______

______

______

______

______

______

______

2. Provide, in the space below, any recommended suggested corrective actions for minor problems and recommended required corrective actions for statutory and/or regulatory problems.

[Attachment II]

KEY TITLE III DISCRETIONARY PROJECT STATUTORY REQUIREMENTS

STATUTORY SECTION AND STATUTORY REQUIREMENT

302(a): The State must establish procedures to identify substantial groups of eligible individuals (see question 3).

302(c)(1): The State, with the assistance of the PIC, must determine what job opportunities exist within or outside of the local labor market area for which individuals may be retrained (see question 6).

302(c)(2): The State must determine whether training opportunities for such job opportunities exist or can be provided within the local labor market area (see question 6).

302(d): Information on training opportunities for identified job opportunities must be provided to the individuals identified (see question 3).

305: The appropriate PIC must be provided with a 30-day period for review and recommendations prior to program operation (see questions 13 and 14).

305: The appropriate chief elected officials must be provided with a 30-day period for review and recommendations prior to program operation (see question 13).

305: The State must consider the recommendations of the PIC and chief elected officials before granting final approval of the program (see questions 13 and 14).

305: If final approval of the program was granted contrary to the recommendations of the PIC and chief elected officials, the State must provide reasons in writing to the PIC and elected officials (see questions 13 and 14).

306: For programs serving a substantial number of members of a labor organization, there must be full consultation with such labor organization prior to the establishment of program (see question 13).

Attachment III

Dear ____________________

The State of _____________ 's dislocated worker project located in ____, funded in Fiscal Year 1983 with discretionary Title III Job Training Partnership Act (JTPA) funds, was reviewed on _________, 1984 by staff of the Department of Labor's regional office in ___________________________________.

1. Overall summary ____________________________________
____
____
____
____

2. Concerns identified, if any, and recommendations
____
____
____
____

3. Statutory problems identified, if any, and recommendations for resolution ___________________________
____
____
____

4. Regulatory problems identified, if any, and recommendations for resolution ___________________________
____
____
____

5. Contractual problems identified, if any (do not provide any recommendations for resolution) ____________

____

____

____

Please provide the information requested to the Office of Contracting, Discretionary Dislocated Worker Program, Room 7122, 601 D Street, N.W., Washington, D. C. 20213. If you have any questions about this letter, please contact Ric Larisch at (202) 376-2453.

Your cooperation in this matter is appreciated.

Sincerely,

EDWARD A. TOMCHICK
Grant Officer
Office of Contracting

Similar to other program compliance review guides, this review involves both a State as well as a subgrantee review. Each of these is composed of an onsite discussion to gather background information required to structure the review, determine relevant policy and procedural issues followed by a review of documentation to validate findings. Both of these reviews focus primarily on topics specific to Title III programs and State oversight responsibility for these programs.

Guidelines follow for pre-onsite activity, onsite activity, and report preparation and followup.

B. Pre-onsite activity

1. *Notify the State concerning compliance review plans.*—The State should be notified in writing of the Region's plans to conduct a review, including subject areas to be covered, time frames involved and sites to be visited. For Title III programs, the sites to be visited will be the State Office and a sample of subgrantees who are operating dislocated worker programs. This will require that Regions determine the nature of subgrantees in the State and select a representative sample using the guidelines below:

Number of subgrantees	*Sample size*
1 to 10	2
11 to 30	3
30 or more	4

The State should be asked to designate a staff person with whom the Region can work in making specific arrangements. Regional staff should contact the designated person to:

Arrange an introductory meeting with appropriate State officials.

Schedule reviews at subgrantees selected by the Region.

Assure that staff responsible for administering Title III programs will be available at the State and subgrantee during the review.

To the extent possible, identify in advance material needed at the State level for onsite document review.

Tentatively schedule an exit meeting with appropriate State officials.

2. *Obtain and review pertinent information.*—Any previous reviews of the State's Title III programs should be analyzed for background information and to determine if any deficiencies remain for followup. The review guide should be modified with appropriate onsite discussion topics and document review to effect this followup. Information available on the State's organizational structure should also be reviewed to limit the need for orientation onsite. The Region should not direct any work generating requests to the State; only information already compiled and available may be requested.

Staff who will be involved in onsite compliance reviews should become familiar the provisions of the law and regulations applicable to Title III formula. These are excerpted in Appendix I.

3. *Make copies of forms for use onsite.*—Multiple copies of subgrantee review forms will be needed onsite. Determine the number needed, based on the number of subgrantees to be reviewed and sample size from Appendix V, and make copies.

C. Onsite activity

A sample schedule for the onsite portion of the review is Appendix II.

1. *Conduct introductory meeting at State Office.*—The purpose of this meeting is to describe plans for and products of the review, and to obtain basic overview information about the State. Points to be covered include:

Introductions; Scope: Subject matter, sites involved; Nature of review—compliance with law and regulations; Results State can expect: Exit meeting, final report; Background topics discussion, if appropriate.

2. *Complete State level onsite discussions and documentation review.*—Using the discussion topics and document review instructions in Part II, Federal reviewers should obtain the information needed. Note that the first background topics concerning State organizational structure may be appropriately asked in the introductory meeting. Once organizational information has been obtained, some time should be taken before conducting discussions and document review to go through the guide and make necessary adjustments reflective of background information gathered.

3. *Complete subgrantee reviews.*—Using the introductory meeting, onsite discussion and documentation guidelines above (Part III of guide is subgrantee onsite discussion and documentation review), complete subgrantee reviews.

A brief exit meeting should also be held at the subgrantee using guidelines immediately below.

4. *Conduct exit meeting.*—Federal reviewers should present all tentative findings both positive and negative—in the exit meeting.

Any additional information the State can provide should be incorporated at this point. State requests for technical assistance should be noted and raised later in the Region for resolution.

D. Report preparation and followup

1. *Prepare draft report.*—A draft report and draft letter of transmittal should be prepared within 15 working days of completion of the onsite review. (Transmittal letter is to the Governor from ETA Grant Officer, cc: State Liaison.) The following is the recommended format for reports.

I. INTRODUCTION

A. Structure of report (summary, specifics, exhibits);

B. Scope and Methodology of Review (legal and regulatory requirements reviewed, dates, sites reviewed, general discussion and document review methodology).

Question 6(b). What types of programs using JTPA dislocated worker block grant funds have been established in the major trade-impacted States, such as Michigan, Pennsylvania, Ohio, Illinois, and New York? How do these programs operate and trade-impacted workers quality?

Answer. From JTPA evaluation studies, we have information on Title III projects in New York and Pennsylvania. Summaries of these case studies are attached. Similar case studies are being prepared for Title III projects in Cleveland, Ohio and Pontiac, Michigan and we will be pleased to make these available to the Subcommittee when they are completed.

In addition, we have information on Title III national reserve awards for the States of Michigan, Pennsylvania, Ohio, Illinois and New York for Fiscal Year (FY) 1983, the 9-month transition period (October 1, 1983–June 30, 1984), and to date for program year (PY) 1984 (July 1, 1984–June 30, 1985). Information on these grants follows:

Michigan.—The State received one grant award in FY 1983 for $1,000,000 for a statewide project to serve dislocated workers from private hospitals and State mental institutions. During the 9-month transition period the State received 4 grant awards for a total of $1,816,470, including: 1) $600,000 to serve auto workers scheduled to be laid off at the Oldsmobile Division plant in Lansing, 2) $416,470 to serve 310 dislocated workers from various industrial and commercial business closings in the Saginaw/Midland Bay Areas, 3) $500,000 to assist UAW/Ford Motor Company dislocated workers in relocating to UAW/Ford jobs in Minnesota, and 4) $300,000 to serve dislocated workers in Jackson, Hillsdale and Lenawee counties. Thus far in PY 1984, the State has received one national reserve award for $1,000,000 to serve dislocated mineworkers in the Upper and Northeast Lower peninsula areas of the State. To date, the State has received a total of $3,816,470 in Title III national reserve awards for the 3 funding periods, to supplement its Title III formula allotted funds.

Pennsylvania.—The State received 2 grant awards in FY 1983 for a total of $1,000,000: (1) $500,000 to assist dislocated workers in the greater Johnstown area, and (2) $500,000 to serve dislocated workers in the Lehigh Valley area. During the 9-month transition period the State received 3 grant awards for a total of $1,638,498: (1) $79,319 to serve dislocated workers from the Crucible Steel plant closure in Midland, including those residing in West Virginia and Ohio as well as Pennsylvania, (2) $459,179 to serve dislocated workers from Ingersoll-Rand plant closure, who reside in Pennsylvania and New Jersey, (3) $1,100,000 to serve permanently dislocated steelworkers in the Midland area, residents of Pennsylvania, West Virginia and Ohio. Thus far in PY 1984, the state has received one national reserve award for $1,000,000 to serve laid-off steelworkers of the U.S. Steel Corporation. To date, the State has received a total of $3,638,498 in Title III national reserve awards for the 3 funding periods, to supplement its Title III formula allotted funds.

Ohio.—The State received 2 grant awards in FY 1983 for a total of $1,723,000: (1) $1,000,000 to serve dislocated workers in the Cleveland area, and (2) $723,000 for Trade Act activities. During the 9-month transition period the State received 2 grant awards for a total of $1,000,000: (1) $500,000 to serve dislocated auto workers in the Greater Cleveland and Cuyahoga County areas, and (2) $500,000 to serve dislocated workers in the Youngstown area. Thus far in PY 1984, the State has received one national reserve award for $2,000,000 to assist dislocated workers in the cities of Canton/Akron, Cleveland and Marion County. To date, the State has received a total of $4,000,000 in Title III national reserve awards for the 3 funding periods, to supplement its Title III formula allotted funds.

Illinois.—The State received one grant award in FY 1983 for $1,000,000 to assist dislocated workers residing in 7 States established entreprise zones. During the 9-month transition period the State received 2 grant awards for a total of $665,000: (1) $165,000 to serve workers dislocated by the International Harvester plant closure, and (2) $500,000 to serve dislocated workers in the steel and manufacturing industries in Southern Cook County. Thus far in PY 1984, the State has received 2 grant awards for a total of $1,650,000: $650,000 to fund a statewide project to serve dislocated workers in the 20 State established enterprise zones, and (2) $1,000,000 to serve dislocated steel workers in the Chicago area. To date, the State has received a total of $3,315,000 in Title III national reserve awards for the 3 funding periods, to supplement its Title III formula allotted funds.

New York.—The State recieved 3 grant awards in FY 1983 for a total of $1,200,000: (1) $200,000 to assist dislocated steel and manufacturing workers in the Buffalo area, (2) $81,000 to serve dislocated auto workers from the General Motors Chevrolet plant in Tonawanda, and (3) $919,000 for Trade Act activities. During the 9-month transition period the State recevied 2 grant awards for a total of $563,903: (1) $248,252 to assist dislocated workers in the Yonkers area, (2) $315,651 to serve laid-off hand tool workers in the Southern Chautaugua County area. Thus far in PY 1984 the State has not received a grant award. To date, the State has received a total of $1,763,903 in national reserve awards for the 3 funding periods, to supplement its Title III formula allotted funds.

Title III funds are provided to the States, which are responsible for the administration of dislocated worker programs pursuant to the provisions of the Act and JTPA regulations. Dislocated worker programs may be administered directly by the State in some cases, in other cases the State may contract with local project operators for the operation of the projects. Trade-impacted workers are automatically eligible for Title III programs. The services and activities provided to such workers, however, will vary from State to State, depending on the particular Title III projects funded by the States.

Study Summaries

CASE STUDY: BUFFALO WORKER REEMPLOYMENT CENTER, BUFFALO, NEW YORK—MATHEMATICA POLICY RESEARCH, INC.

Summary

This is the first case study of the six (6) dislocated worker demonstration projects. When the one year funding ended in September 30, 1983, the enrollment goal of 720 had been exceeded by 78, and the placement goal of 500 had been exceeded by 23. The expenditures totaling $1,576,123 were 78.8 percent of the $2,000,000 available. Projected costs per participant of $2,778 were, in fact, $1.975 or 71.1 percent of originally planned costs, and the cost per placement was $3,014 or 75 percent of the $4,000 per placement projected in 1982.

Principal findings

The staff of the Buffalo Worker Reemployment Center saw no need for major changes in service delivery. Some suggestions for adjustments were:

Dislocated workers.—Dislocated workers generally were older, experienced, had a strong work ethic, and were accustomed to relatively comfortable and steady incomes. They were married, had children, owned homes, had mortgages, and knew what it meant to punch a time clock. They tended to define themselves by their jobs. Since they had been employed for a number of years, they were unfamiliar with the skills required to seek a job and often lacked job interviewing skills.

Job clubs.—The heavy case load left virtually no staff time for job club groups. Staff felt that a more formalized approach to job club might have been helpful.

Trade offs.—While classroom training has a place in an effort to move workers from one group of occupations to another, participants in classroom training had the lowest placement rate (57 percent) and the highest cost. Fixed-term demonstration programs can achieve placement productivity but workers cannot be retrained effectively without long-term training, especially if post-training wages are expected to be equal to, or higher than previous wages.

Conclusions

Although the findings reported in the case study are consistent with the fact that the program achieved or exceeded virtually all its goals, definitive conclusions on the extent to which it was the program that achieved these reemployment levels among the group of participants cannot be drawn on the basis of this case study alone. A subsequent impact analysis of this and other case studies will provide a rigorous assessment of the net contribution of the demonstration project to the reemployment of dislocated workers.

CASE STUDY OF OPERATION JOB SEARCH: THE LEHIGH VALLEY DISLOCATED WORKER DEMONSTRATION PROGRAM—MATHEMATICA POLICY RESEARCH, INC.

Summary

This is a case study of one of the six (6) dislocated worker demonstration programs funded by DOL between October 1982 and September 1983. When the program ended on September 30, 1983, the enrollment goal of 1,000 workers had been exceeded by 58 percent, but the goal of placing 450 workers had not quite been achieved: 1,285 workers had enrolled; 88 had received on-the-job training; 353 had received classroom training; and 411 workers had been placed. The program expenditures of $925,019 were 77 percent of the $1,200,000 available, and the projected costs both per participant and per placement were well below the planned levels. On average, only $720 was spent on each program enrollee, and the average cost per placement was $2,251. These unit costs per enrollee were substantially below the demonstration average costs of $1,272, but the average cost per placement were only slightly below the demonstration average of $2,324.

Principal findings

A number of observations can be made about the Lehigh Valley program that may have relevance for other efforts to serve dislocated workers. First, the problems surrounding the early planning, implementation, and staffing of this program suggest the importance of establishing clear lines of authority and unambiguously assigning responsibility for the administration of the program. Second, the importance of maintaining strong linkages with organizations external to the demonstration cannot be overstated. The PIC served as an important vehicle for this in Lehigh Valley. Third, the importance of implementing some mechanism to help sustain the involvement of participants in the program was recognized in the Lehigh Valley Program. The implementation of the job clubs helped increase the involvement of clients in the program and promoted their use of the resource center. (Other demonstration programs tended to rely on persistent contact with clients by the resource center counselors to encourage participating. None of the other five programs experienced success with job clubs.)

Finally, the program's extensive experience with classroom training constitutes a potentially rich source of lessons. First, staff felt that the program should have been more selective about which clients were routed into training and that it should have relied more on objective standards of ability and need, rather than client preferences, in selecting trainees. Additionally, staff indicated that full-time, class-sized training seemed to generate more commitment on the part of clients than did other types of training. The program's experience also suggests that decision-makers should be cognizant of tradeoffs between retraining and skills upgrading. At least with respect to clerical skills, skills upgrading appeared to be the more cost efficient option. Finally, a number of issues must be adressed in order to achieve success with "high-tech" training programs, including finding qualified, committed instructors; concentrating course work into relatively short durations; correcting unrealistically high expectations on the part of clients; the inevitable competition of well (perhaps better) trained "regular" classroom training graduates (often with degrees) in the job market; and, finally, the high cost of the training.

Conclusions

Although the findings reported in the case study are consistent with those from the case studies of the other five demonstration programs, definitive conclusions on the extent to which it was the program that achieved these reemployment levels among the group of participants cannot be drawn on the basis of this case study. A subsequent impact analysis of the Buffalo program will provide a rigorous assessment of the net contribution of these types of program and services to the reemployment of dislocated workers.

Question 7. Section 807 of the Trade and Tariff Act of 1984 requires the Secretary of Labor to submit to Congress by April 1 a proposed plan to assist workers in communities adversely affected by steel imports, including retraining and relocation of former steelworkers. What has the Department done so far in preparing this plan? Based on information so far, what existing program and funds do you anticipate using for this purpose, or may you request specific authority and funds?

Answer. The Department is actively involved in developing the plan requested by Congress. We are presently preparing a study of workers in the steel industry who have been displaced from their jobs as a result of imports and other factors. The study, which will serve as a basis for the development of the Department's plan, is being carried out by a task force composed of several offices of the Department. The analysis will compare the characteristics of dislocated steel workers with the general dislocated worker population and will assess our program experience in addressing the training and employment problems of these workers.

Since our work is still in the analytic stage, it is too early to suggest which specific program actions will be included in the plan which we will submit to Congress. However, it is clear that the dislocated worker program under Title III of the Job Training Partnership Act will be an important feature of that plan.

Question 8. ~~What is the cur~~rent backlog of TAA petitions pending certification and the average length of time for processing cases? How do these levels compare with fiscal year 1984? What levels are projected for the remainder of this fiscal year?

Answer. Substantial improvement has occurred from our 1980 and 1981 experience where it frequently took more than six months to process petitions and issue decisions.

Currently, it takes about three months to process a petition and issue a decision, and numerous cases are completed within the 60 day time frame directed by law.

One measure of the progress is the age of our case inventory e.g., in April, 1983 the average case had been in inventory for almost 4 months while in April, 1984 the average age of case in inventory had been reduced to about 2.5 months. Currently the average age is about 1.5 months and less than one percent of the cases are older than three months.

On February 1, 1985, the Department's Office of Trade Adjustment Assistance had a case inventory of 186 petitions. Less than three percent of that inventory involved cases older than 60 days. This compares to the situation at the beginning of FY 1982 when OTAA had over 1200 cases in inventory and more than 90 percent of them were older than 60 days. Last year at this time the case inventory was 257 and included about 125 cases older than 60 days.

Petition activity for the first 4 months of fiscal year 1985 is up 53 percent over the same period in fiscal year 1984—from 152 worker petitions in FY 1984 to 233 petitions in FY 1985. This trend is expected to continue in FY 1985.

Question 9. What is the current staffing level for processing TAA petitions and how does this compare with the staff level in fiscal year 1984? What is the staffing level in Washington for administration and oversight of State training and other employment services under the TAA program?

Answer. On February 1, 1985, forty-two (42) staff members were on-board in the Office of Trade Adjustment Assistance (OTAA) to administer the TAA program and to process petitions. In FY 1984 the full time equivalent staff level for OTAA was 54. Currently five staff vacancies are in the process of being filled.

In Washington, one full-time and one part-time staff member provide administrative support and oversight to State TAA training and other employability services.

Question 10. To what extent do workers under the JTPA dislocated worker program receive cash allowances while in training such as they do under TAA? To what extent do they get OJT with reimbursement to employers for salaries? (Supplementary question.)

Answer. Under Section 307(a) of the Act, no more than 30 percent of each State's Title III grant may be used for supportive services, the costs of administration and allowances. Further, it is estimated that approximately one-half of all Title III trainees are receiving unemployment insurance benefits. We do not have data concerning the proportion of enrollees under Title III of JTPA who receive cash allowances while in training. However, the proportion is likely to be very small.

Our data indicate that approximately 77 percent of the expenditures by the States for Title III during Transition Year 1984 (October 1, 1983-June 30, 1984) was used for training, including on-the-job training programs, employers are reimbursed for up to 50 percent of a trainee's wages to compensate for the extraordinary costs associated with the training of these individuals. The data systems do not have information on the number of Title III participants who are enrolled in on-the-job training.

Question 11. To what extent are State employment services and the training and other services they provide TAA workers, also used for dislocated workers under the JTPA program, or are the opportunities different? (Supplementary question.)

Answer. The same range of training and related services is available under Title III of JTPA as is authorized under the TAA program. The specific service mix provided to an individual under either program is determined by their needs and aptitudes and the occupational demand of employers in their communities rather than the cause of their unemployment. In some States, the State employment service administers both the JTPA dislocated worker program and the TAA program. In most States, however, they are administered by separate agencies.

BUDGET TESTIMONY—TAA—RESPONSE TO INQUIRY ON JOB PLACEMENT

Question 1. Show the number of workers under TAA in each of the following categories for each year since 1975 through 1984 plus cumulative totals:

a. Estimated number of petitioners.
b. Estimated number certified.
c. Number who received basic TRA.
d. Number who entered training.
e. Number who completed training.
f. Number of job searches.
g. Number of relocations.
h. Number of job placements: i. Of all workers certified; ii. Of workers who entered/completed training.
i. Number requesting/receiving other employment services (e.g., counseling, testing).

Show the number of workers in each of the above categories under the JTPA dislocated worker program from the beginning of the program through the most recent period.

Answer. The data requested on TAA are contained in the attached table. With respect to JTPA, States report to the Department of Labor on an annual basis. Only the most important information, necessary for determining performance under the system, is required. The latest reports available for the dislocated worker program are for the period ending June 30, 1984. The reports include information on the number of individuals served, the number of terminations, and the total number of individuals who entered employment. Following is the information for JTPA title III for the period from program startup through June 30, 1984:

Total participants	96,067
Total terminations	50,536
Total entered employment	36,489
Percent entered employment	72

TAA ACTIVITY—APRIL 1975–SEPTEMBER 1984

[Fiscal years and cumulative]

	Total	1984	1983	1982	1981	1980	1979	1978	1977	1976 [1]
Petitioners [2]	2,690,511	92,880	266,140	157,596	355,777	841,017	214,863	255,452	183,226	323,560
Workers certified [2]	1,362,157	22,339	38,638	16,910	46,5171	670,735	119,240	156,699	112,662	178,363
Basic TRA [3]	1,397,001	15,821	30,032	30,463	281,408	531,900	132,188	155,005	110,705	109,479
Job searches [4]	7,325	799	697	697	1,491	931	1,181	1,071	277	191
Relocations	10,561	2,220	3,291	662	2,012	629	855	631	191	70
Total placements of all workers certified [5]	45,586	3,130	4,214	2,831	7,167	9,000	8,695	6,237	2,675	1,637
Entered training	71,666	6,823	11,303	5,750	20,392	9,475	4,457	7,967	4,213	1,286
Completed training	28,310	4,909	4,045	2,101	5,529	2,924	3,883	3,678	912	329
Placements after training [5]	4,528	433	373	162	569	1,034	781	702	423	51
Job referrals [6]	120,077	12,848	14,596	12,947						
Counseling [6]	283,706	18,065	30,521	29,056						
Training referrals [6]	65,604	8,670	15,030	7,527						

[1] Data in column headed 1976 includes activity for April 1975 through September 1976.

[2] Petitioners and workers certified—estimated number of workers on petitions for which decisions were issued. Individual worker eligibility is determined when the worker files a claim for TRA or application for services.

[3] Basic TRA—number of workers who drew a first TRA payment.

[4] Job searches—total number of transactions—some workers may have participated in more than one job search.

[5] Placements—represents the specific definition used by State employment service agencies, i.e., there must be a job order, the individual must be referred, and the employer must verify the hire.

[6] Job referrals, counseling sessions and training referrals are transaction counts and not individuals receiving services. Data on these items is readily available only for the last three fiscal years and cumulatively from the beginning of the program.

Data Source: ETA internal reports and monthly reports of State Employment Security Agencies.

Question 2. What are the reasons for the different performance levels under the two programs as shown above?

Answer. We believe that the higher placement rate under the dislocated worker program under Title III of JTPA is attributable to differences in its design as compared with the Trade Adjustment Assistance (TAA) program. Under Title III of JTPA, it is possible to provide services early in the displacement process. Workers can be offered training and other services as soon as they are laid off or receive an advance notice of layoff. Under TAA, with the requirement for certification that Trade is an important cause of the layoff, workers frequently do not enter training until months after their layoff. Even with the considerable reductions in backlogs that have been achieved, the lags inherent in the certification process typically involve 60–90 days from the date of petition, which often occurs after some workers have already been separated.

It is critical to ultimate placement success that workers be reached early in their unemployment, when their morale is likely to be high and before financial pressures prevent them from selecting and completing retraining programs, even when retraining is needed to achieve stable employment. Further, in the case of TAA, the combination of a long waiting period before training is available and the prospect of additional trade adjustment financial benefits after regular UI benefits have been exhausted, results in some TAA-eligible workers enrolling in training for the primary purpose of obtaining additional cash transfers. This may cause the enrollee to be less selective regarding the type and quality of training they undertake and also less enthusiastic in pursuit of it once enrolled.

In addition to these design features, there is a difference in the definition of outcomes under JTPA and TAA which may account for part of the difference in the placement rate for the two programs. By definition, the placement rate under Title III of JTPA refers to the percent of all program terminees who have entered employment. This includes primarily individuals who received training, but also includes individuals who received other services such as job search assistance. The TAA training placement measure, by definition, includes those who completed their training and were placed by the public employment service. A large proportion of trainees under TAA leave the program before they complete their training, many returning to jobs with their former employers.

Question 3. How many workers received some or all of the extra 26 weeks of TRA while in training, what was the average duration, and the total dollar amount: before 1982; since the program changes in 1982?

Answer. Before 1982, 44,305 workers received an average of 19.3 additional weeks of TRA for a total of $169,085,349 while in training. Since 1982, 5,545 workers received an average of 21.8 additional weeks of TRA for a total of $16,751,412 while in training.

QUESTIONS POSED BY THE MINORITY AND ANSWERS BY THE DEPARTMENT OF LABOR

Question 1. What is the appropriate Federal role regarding dislocated workers in general, and trade-impacted workers in particular? Doesn't the Federal Government have a special obligation to those adversely affected by its trade policies?

Answer. The overwhelming majority of dislocated workers can and do find employment on their own without Federal assistance. The most important Federal responsibility with respect to dislocated workers and unemployed workers in general is to assure the continued and orderly expansion of the economy and the resultant increase in job opportunties. Beyond that, the Federal Government and the States can facilitate the job search of dislocated workers by providing temporary income replacement for these workers under the unemployment compensation program. Finally, for those dislocated workers who require retraining, job search assistance or related services, we feel it is appropriate for the Federal Government to make these services available, through State-run programs. Title II of the Job Training Partnership Act (JTPA) is the programmatic expression of that policy.

We do not believe that Federal policy should make special provisions for individual groups of unemployed workers because they are adversely affected by trade or other specific public policies. Rather, we believe that reliance should be placed on those initiatives whose success has been demonstrated, such as JTPA, thereby avoiding the unnecessary duplication of administrative and delivery costs associated with less successful efforts such as TAA.

Question 2. If the authorization for the Trade Adjustment Assistance program for workers is allowed to expire at the end of Fiscal Year 1985, what measures do you propose to assist workers who have lost their jobs due to import competition? Will you have enough resources to assist all those who need help?

Answer. Readjustment for dislocated workers is successful only when the individual obtains new employment and this will be facilitated by steady economic growth. We all recognize that, unless progress is made in reining in the enormous deficits that the Federal Government is currently incurring, steady growth over the longer term is threatened. Where we can identify programmatic redundancies, we can curtail spending without curtailing assistance, particularly if we eliminate the less effective duplicative efforts such as TAA.

We propose that TAA be allowed to lapse, as current law provides. Our proposal recognizes that training and other services are available for displaced workers, including trade affected workers, under Title III of the Job Training Partnership Act (JTPA).

Our budget request for Fiscal Year 1986 will provide resources sufficient to service about 150,000 individuals under Title III, which is more training for dislocated workers than has ever before been provided. And JTPA's success is documented with an entered employment rate in excess of 70 percent in its first program period.

The worker adjustment assistance provisions of the Trade Act duplicate services and assistance available to trade displaced workers under the basic unemployment insurance program and the Job Training Partnership Act. There is no justification for maintaining duplicate and overlapping programs targeted to the same class of workers. Trade displaced workers will receive the assistance they need under JTPA.

Question 3. You are relying heavily on the JTPA Title III program to serve trade-impacted dislocated workers. What evidence do you have that this program is working? Do you have any hard data on the program's effectiveness?

Answer. During the transition year, 96,100 individuals were enrolled in Title III programs. Of the 50,500 who terminated during this period, 72 percent entered employment at an average cost per entered employment of $1,951. Seventy-seven percent of the $73.8 million expended on Title III programs was spent on training and only 28 percent (less than the statutory maximum) on administration and supportive services.

Question 4. What evidence do you have that extra weeks of UI cash benefits provide disincentives for effective job search by unemployed workers?

Answer. Research studies have shown, on the whole, that additional weeks of benefits have a work disincentive effect by lengthening unemployment spells. Studies differ considerably in methodology as well as in such aspects as the unemployment rate, the stage of the business cycle during the study period, and the proporation of short- and long-term unemployed in the sample. Many estimates have been made and they suggest that one extra week of potential benefit duration lengthens unemployment spells.

Key findings of studies of the effects of additional weeks of unemployment benefits on unemployment duration are presented below and in the attached table.

In a study completed in 1984 by Mathematica Policy Research, the same model was used on several different data bases similar to those used in past studies. The researchers estimated that a one-week increase in potential UI duration increased the unemployment spells of males by 0.17 to 0.45 weeks. This means that a 13-week extension would increase duration between 2 and 6 weeks. The estimated effect on the unemployment spells of females and 0.10 to 0.37 weeks. This translates to a range of one to five weeks for a 13-week extension for females.

Katz and Ochs, in a 1980 study using data from the Current Population Survey in 26 States, estimated that one additional week of potential duration was associated with an additional 0.2 weeks of unemployment.

Newton and Rosen used data from a single State, Georgia, in 1974–6, and estimated that a one percent increase in potential duration was associated with a 1.09 percent increase in compensated unemployment duration. This was translated into the finding that an additional week of potential duration is associated with 0.4 to 0.5 additional weeks of unemployment.

An example of the upper limit of estimates is found in a study of Holen in 1977, in which she analyzed data from the experimental servcie-to-claimants project in five cities. Her findings suggest that an additional week of benefits available is associated with an additional 0.8 weeks of compensated unemployment.

TABLE I.—PAST STUDIES OF BENEFIT DURATION

	Data set	Effect of 1 additional week of potential duration	
		On weeks unemployed	On earnings per quarter
Ehrenberg-Oaxaca (1976)	National Longitudinal Survey	0	0
Hoien (1977)	Special Five-City Survey	0.8	$2.50
Brewster et al. (1978)	FSB Recipients	0.4–0.5	0
Newton-Rosen (1979)	Georgia UI Recipients	0.4–0.5	....
Solon (1979)	New York UI Exhaustees	0.3	....
Kiefer and Neumann (1979, 1981)	Special Survey of Unemployed	....	0
Fishe and Maddala (1980), Fishe (1982)	Florida CWBH Sample	0.8	30.00
Katz and Ochs (1980)	CPS	0.2	....
Moffitt and Nicholson (1982)	FSB Recipients	0.1	....
Nicholson and Corson (1978) and Nicholson (1981)	Aggregate Exhaustion Rates	[1]	....
Mathematica (1984) (Moffitt)	Review and Analysis of Prior Studies (no new data set)	[2] 0.17–0.45 [3] 0.10–0.37	....

[1] Positive.

[2] Males 0.17–0.45.

[3] Females 0.10–0.37.

Sources: Final Report. The Effect of the Duration of Unemployment Benefits on Work Incentives. An Analysis of Four Data Sets. Robert Moffitt. Mathematica Policy Research. August 1984.

Question 5. Does JTPA Title III serve the same clientele as TAA, or a different one?

Answer. Virtually all workers certified for TAA would also be eligible for services under Title III of JTPA. Title III is, of course, broader in scope and is open to workers who are dislocated for a variety of reasons, including the impact of imports.

It is important to note a key distinction between TAA and JTPA, however. Because eligibility for TAA requires a determination that an important cause of the dislocation is the impact of imports, there is typically a considerable lag between layoff and determination of eligibility. Even where certification is accomplished expeditiously, this is a 60-90 day process. As a result, by the time TAA training and employment services are made available, the participants have already experienced considerable frustration in their job search, with potentially deleterious consequences for their morale and enthusiasm for training. On the other hand, JTPA services can be made available upon notice of layoff without a lag. In this way, JTPA reaches those in need early on, when their morale is highest and their range of opportunities the broadest.

Question 6. How does the Department of Labor administer the Trade Adjustment Assistance program?

Answer. Workers displaced from their jobs because of increased foreign imports are helped by the Trade Adjustment Assistance (TAA) program to return to suitable employment. The TAA program provides weekly cash benefits called trade readjustment allowances (TRA), training, job search and relocation allowances, and other reemployment services.

Eligibility for TAA is established through an administrative process involving:

Filing of petitions with the Secretary of Labor by a group of workers or their duly authorized representative.

Factfinding investigation conducted by the Department of Labor with provision for public hearings and announcement in the Federal Register.

Determination of eligibility issued to petitioning worker group or denial based on factfinding.

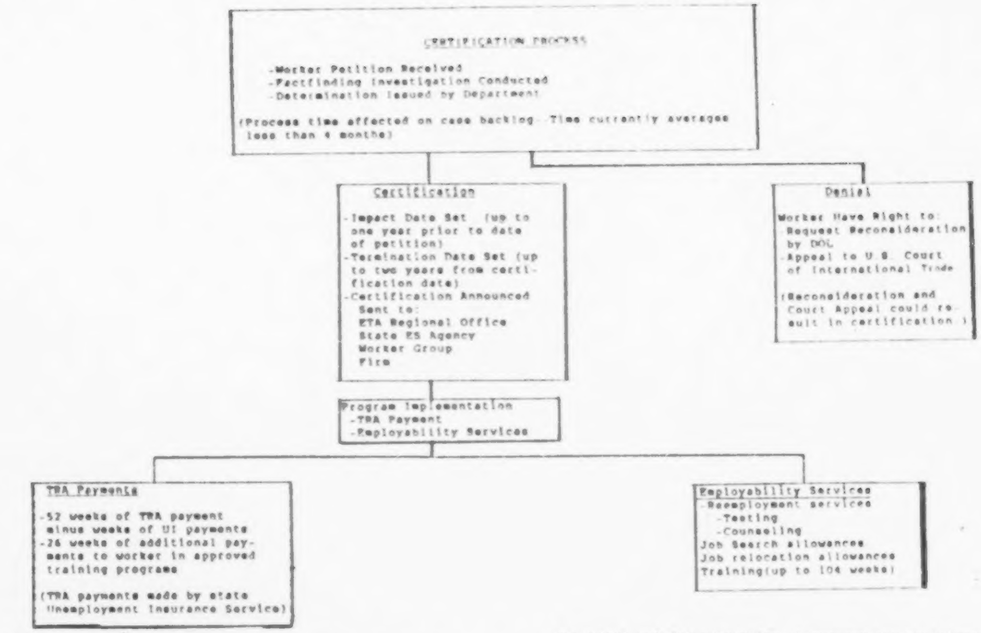
Certification of eligibility issued to petitioning group to apply for assistance.

Individual workers certified for TAA benefits and employability services by State employment security agencies (SESA).

The entire process is now taking about 3 months, on average, and for many cases the process is being completed very close to the 60 day period directed by statute. Current experience represents considerable improvement over the past several years when it regularly took more than 5 months to process a petition and case backlogs were in excess of 500 cases, on average, each month. The average case backlog has been reduced steadily to an average well under 200 per month and at the end of February was 166 cases.

SESAs administer the TAA program at the local level. The State unemployment insurance service is responsible for paying the trade adjustment allowances to certified workers, while the State employment service is responsible for providing employability services, and approving training, job search, relocation and other employability services.

The following schematic describes the trade adjustment assistance process more specifically from the filing of a petition with the Department to paying allowances and providing employability services to eligible workers by SESAs.



CERTIFICATION PROCESS

- Worker Petition Received
- Factfinding Investigation Conducted
- Determination Issued by Department

(Process time affected on case backlog. Time currently averages less than 4 months)

Certification

- Impact Date Set (up to one year prior to date of petition)
- Termination Date Set (up to two years from certification date)
- Certification Announced Sent to:
  ETA Regional Office
  State ES Agency
  Worker Group
  Firm

Denial

Worker Have Right to:
- Request Reconsideration by DOL
- Appeal to U.S. Court of International Trade

(Reconsideration and Court Appeal could result in certification.)

Program Implementation
- TRA Payment
- Employability Services

TRA Payments

- 52 weeks of TRA payment minus weeks of UI payments
- 26 weeks of additional payments to worker in approved training programs

(TRA payments made by state Unemployment Insurance Service)

Employability Services
- Reemployment services
  - Testing
  - Counseling
Job Search allowances
Job relocation allowances
Training(up to 104 weeks)

Entitlement to UI including any extended benefits must be exhausted before entitled to receive TRA.

Worker begins with a basic 52 week TRA entitlement but deduct all weeks of UI and extended benefits received in the worker's first benefit period.

Under old law, up to 26 weeks of additional TRA may be paid to a worker in an approved training course but the additional weeks could be paid only during the 26 weeks period immediately following the exhaustion of the basic 52 weeks of TRA. (Because of administrative delays and lack of training funds in States, workers frequently lost weeks of TRA payments)

DRA amendment allows the 26 additional weeks of TRA payments to begin the first week of training, provided eligible worker files for the additionl weeks within 210 days of the date of the certification or within 210 days of the date of the worker's separation from adversely affected employment, whichever is later.

Job search and job relocation allowances are entitlements and must be paid upon request by worker.

Job training may be provided, if funds are available and the State ES approves training.

Workers must file a bonafide application for training within 210 days of petition certification or separation, whichever is later.

Training may not exceed 104 weeks.

Question 7. Why are FY 1985 unemployment insurance base funds in the State Unemployment Insurance and Employment Service Operations (SUIESO) account being used to administer Trade Adjustment Assistance training, job search and relocation activities since $26 million of funds were included in the FY 1985 Training and Employment Services (TES) appropriation for this purpose?

Answer. The House Bill (HR 6028) specified that the $26 million added to the FY 1985 TES appropriation be used for Trade training, job search and relocation allowances as provided under sections 236, 237 and 238 of the Trade Act of 1974, but excluded the reference, contained in earlier years, to the use of these funds for administration. Instead HR 6028, added language to the FY 1985 SUIESO appropriation that allowed the use of SUIESO funds for administering these Trade activities as provided under section 236, 237 and 238 of the Trade Act of 1974 but included no additional funding.

The Senate Bill (S 2836) added $29.7 million to the TES account in FY 1985 to be used for Trade training, job search and relocation allowances, including $3.7 million for administration of these activities.

Conference action and the final enacted FY 1985 Labor-HHS Appropriation Bill for the Trade Program was the same as the House Bill (HR 6028). As result, UI base funds are being used for the administration of Trade training, job search and relocation activities, since this was the only funding source in the FY 1985 SUIESO appropriation to adequately cover the cost of administering trade activities in FY 1985.

Question 8. Over the past several years the Labor Department has reduced program support so that today substantially less resources are available to administer the Trade Adjustment Assistance program than has been true in the past. How has this affected program administration?

Answer. It is true that since 1981 there have been reductions in the amount of resources dedicated to support trade adjustment assistance activities in the Department of Labor. However, these reductions were consistent with reductions in program activities that occurred following the OBRA amendments that became effective in 1981.

Since 1981 key measures of program activity reflect improved administrative performance. In Fiscal Year (FY) 1982 the average monthly inventory of cases was 888. This was reduced to an average of 727 in FY 1983; 258 in FY 1984, and 166 for the first 5 months of FY 1985. In FY 1982, on average, it took 5 months to process a case and many cases had been in process for more than 6 months; processing time had been reduced to about 4 months in FY 1983 and to about 3 months in FY 1984. Currently, it is taking less than 3 months, on average, to process a case and many cases are being completed close to the 60 day period directed by the statute. This is the first time that has occurred on a regular basis since the beginning of the program.

We have also made significant progress in improving the timing and manner in which training, job search and relocation funds are allocated to the several States. Greater awareness has been achieved at the State level that has avoided wasteful duplication with JTPA efforts. States have been required to utilize funds allocated in prior years before requesting additional funds, and fund requests are submitted for actual program demands rather than anticipated future demands. The net result has been that scarce resources are being allocated to where they are needed on a current basis and are being efficiently utilized in a timely fashion.

Chairman GIBBONS. Next is Mr. Robert Tobias from the National Treasury Employee Union.

Mr. Tobias, it is obvious you represent a lot of miracle workers because despite the fact that imports in 10 or 15 years have grown from about $50 billion to now $200 or almost $300 billion a year, your people are all doing the good jobs now they did when there was that much less business.

I realize inflation accounts for some of that, but I want to commend your members for what they have been able to do without any increase in employment, and now you are going to take a 900-personnel attrition or cut in jobs.

As I said a little earlier and I think I said it on the record and if I didn't, I might as well say it on the record, all this budget making tends to be somewhat of a game. The pros down in the Office of Management and Budget that do not ever change always cut the programs that they know that Congress is going to have to restore or the Government will come to a halt or we will have chaos, so they cut them and then they present a budget; and in the meantime they have taken your money and slid it over into foreign aid programs and slid it over into the defense program or the Pentagon spending program, and then they wait for Congress to come back and get the Government running on a level keel again.

Then we catch a lot of heck saying, well, you know, Congress really did not cut the budget.

But I just have to look at you and say you must represent a lot of miracle workers. The volume of your business has gone up tremendously. The complexity of your business has gone up tremendously, and yet you can do it with fewer and fewer people; and your job is essentially a revenue collection job and a policing job. Your people are to be commended.

Go right ahead, now.

STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, ACCOMPANIED BY PAUL NEWTON, DIRECTOR OF LEGISLATION, AND PAUL SUPLIZIO, LEGISLATIVE CONSULTANT

Mr. Tobias. We appreciate that very much, Mr. Chairman, and we appreciate all of the support that you have given our members and the U.S. Customs Service, notwithstanding the niggardly requests that have been forthcoming from this administration; and I certainly agree with you the career customs management, and the career customs inspector, and import specialists know that doing more with less is merely a charade and we are pleased that you and the rest of the members of this subcommittee recognize that.

Mr. Chairman, as you can see, the statement that we have prepared is long and involved and an attempt to give you some information that we have about the U.S. Customs Service.

The first few pages, however, constitute a summary and I would like to read a portion of that for the record if there is no objection.

Chairman Gibbons. Go right ahead.

Mr. Tobias. A crisis of enforcement, long in the making, confronts Customs today. In 1984, sharply rising narcotics traffic made supplies of illicit drugs more abundant than ever, and a huge trade compliance gap brought $40 billion in illegal imports to our shores.

By all indicators, 1984 was a disasterous year for Federal narcotics interdiction efforts. Heroin purity and availability rose. Cocaine supply increased and its street price fell, encouraging its growing abuse by all income groups. While marijuana use has leveled off and actually declined among young people, over 20 million persons are using marijuana regularly.

Drug seizures are larger than ever, which is a credit to Customs, DEA, Coast Guard, and local law enforcement agencies. But larger seizures are also indicators of greater trafficker activity, which means that deterrence is not working. Cocaine supplies have been increasing at the rate of 30 percent a year, and marijuana at a 7 percent rate. No more than 10 percent of the cocaine and heroin, and 16 percent of the marijuana supply is being interdicted.

There is abundant evidence of the social costs of this traffic in the crime rate, in the job market, in schools, and treatment facilities. When a firm in the State of Washington advertised for 750 workers, it was amazed that half failed a test for marijuana use. Here at home, we learn that Montgomery County high school seniors have a rate of cocaine abuse twice the national average. City Councilman John Ray recently pleaded with D.C. residents to eliminate drug abuse which is, in his words, "a form of genocide in the black community." Last month, the U.S. Supreme Court—in *New Jersey* v. *T.L.O.*—gave school officials broad power to search students because, said the Court, drug use and violence in the schools are major social problems.

An idea of the dimensions of the drug threat is provided by the Mexican Government's raid on a Chihuahua Province marijuana depot last November. It resulted in seizure of 9,000 tons of marijuana—an amount equal to the annual output of Columbia, the world's largest producer. Police confiscated dozens of truck trailers and freight containers and arrested more than 11,000 marijuana pickers, packers, and warehouse workers.

A casualty of the resurgent drug trade has been the National Narcotics Border Interdiction System, headed by Vice President Bush. The system consisted of coordinating groups set up in six major cities to better direct the Federal interdiction effort. The difficulty is, as the General Accounting Office has pointed out, a coordinating agency is useless without sufficient assets. The resources of NNBIS are in no way adequate to the task it faces.

In the face of this crisis, the administration has requested a reduction of 411 positions in Customs drug interdiction functions for fiscal year 1986. Of these, 206 are inspector positions. This is the fifth consecutive year in which Congress has had to deal with a totally unrealistic budget request from this administration. Customs drug interdiction resources have remained static since 1975, and what is needed is a significant increase to deal with the threat as it exists today.

If we are to make headway against traffickers who have demonstrated enormous versatility in shifting their operations from point to point along our 26,000-mile frontier to avoid detection, there is a critical need for additional inspectors to deter traffickers from smuggling drugs by means of couriers and cargo shipments. This would leave direct air and sea movement as the sole means of border penetration, and traffickers would be vulnerable to our defenses in these areas provided we ensure adequate interdiction capability. At present, trafficking is so extensive and we are so lacking in inspectors, and in air and marine capability, that the five gulf coast Governors have called for turning the drug interdiction mission over to the Department of Defense, because, as we know, they are able to get funds without problems from anyone. [Laughter.]

We believe that a single agency should have charge of the Nation's borders, and that agency should be Customs. We assume the Cabinet Council on Management and Administration will renew its proposal for consolidation of primary inspection responsibility at air and sea ports in Customs and at land border ports in INS.

We strongly object to the fragmentation of narcotics enforcement by assigning primary inspection responsibility at the land border ports to INS. Customs already fills a majority of the positions at those ports, and we believe INS lacks the ability to perform the drug enforcement mission.

We urge the subcommittee to move for immediate consolidation under Customs at air and sea ports, while maintaining the status quo at land borders until the air/sea consolidation can be evaluated. We believe the merit of having a single enforcement communications system applicable to all persons regardless of mode of arrival will clearly demonstrate the effectiveness of consolidation within Customs at land border ports.

A second aspect of the enforcement crisis we face is the commercial trade compliance gap, representing nearly $40 billion in unreported and counterfeit goods illegally entering the country, including goods such as steel and textiles entering in violation of specific trade agreements. This compliance gap poses an enormous burden of illegal and unfair competition upon American producers, costing an estimated 1 million jobs and $3 billion in lost revenue from duties. It is ironic to me that an administration that prides itself on running itself like a business would cut jobs when there is $3 billion out there to be recouped.

The largest part of the compliance gap, $25 billion or 65 percent of the total, consists of unreported goods that go undetected due to insufficient cargo processing staff. Vehicles, vessels, and containers of all types are capable of carrying unreported goods. Another $12 billion or 31 percent consists of counterfeit products. In hearings last year, the House Energy and Commerce Committee exposed the grave danger, both to the economy and to the health and safety of our citizens, of phony drugs, aircraft parts, and other goods of inferior quality parading under an accepted brand name.

With merchandise entries soaring 20 percent last year as the Nation recorded the largest trade deficit in its history, Customs—with resources that have remained static since 1975—elected to bypass 60 percent of the entries, meaning entry documents were not subject to import specialist review to ensure proper valuation, tariff classification, and compliance with trade law requirements.

In addition, Customs allowed 99 percent of containerized shipments—which comprise 70 percent of seaborne cargo—to enter without inspection. This sharply reduced enforcement placed importers on a virtual honor system, and is one of the principal causes of the trade compliance gap.

Further contributing to the compliance gap were the misguided judgments of Customs management. Unable to cope with the rising volume of entries, Customs has sought to make the honor system its basic principle of commercial clearance. Entries are accepted and duties collected as submitted by brokers, with audits used later to verify compliance. The principal vehicle for accomplishing this is the automated broker entry data to Customs' computers without import specialist review.

We believe this is giving away the store. Customs has documented a long history of significant broker errors: Undervaluations and misclassifications that reduce duty and circumvent quota restrictions. This is not surprising because brokers, by tradition and instinct, wish to keep duties as low as possible and there has long been a game of cat and mouse between Customs and brokers.

With over 10,000 tariff code classifications, and the possibility of classifying a product in more than one way, the opportunity for self-serving judgments—unrestrained by any Customs review except postaudit—would not adequately protect the revenue. Moreover, many tariff classifications can only be properly determined by laboratory analysis, and this cannot be accomplished with integrity after a shipment has entered the stream of commerce.

Last year, correction of broker errors through change liquidations alone resulted in collection of $180 million in additional revenues. Correction of errors through preentry review of entry documents generates another $50 million. Broker errors are, obviously, not insignificant.

If a shipment is classified to get around a quota, the damage to the domestic market will have occurred by the time an after-the-fact audit takes place. Import specialists need to make admissibility determinations and sample the shipment before goods enter the stream of commerce. They can detect quota errors and keep out harmful products, such as chemicals and medicines, that could endanger the public if allowed to enter freely. The idea of allowing the importer to be the judge of admissibility is a total relinquishment of a responsibility by the U.S. Customs Service.

It should be clear from the experience with bypass to date that an honor system won't work. Since bypass was instituted in fiscal year 1983 the country has been deluged with unreported goods and counterfeits. The signal that something was wrong came from the affected industry, which had to hire its own investigators to convince Customs that it was losing business and jobs. A postaudit system can't undo the damage from allowing illegal goods to enter the stream of commerce.

Under an honor system there is a reduced need for import specialists to review entry documents. Hence, Customs has been trying to eliminate the corps of import specialists who are the very backbone of commercial trade law enforcement. As a result, import specialists are demoralized. Their expertise, acquired from specializing in a single commodity line, enables them to make proper classification, evaluation, and admissibility decisions. Without such expertise, the Customs Service would not be on a par with brokers and others in the trade.

But because Customs lacks a clear concept for use of the import specialist, they are now being assigned to more than one commodity line, to account specialist roles, handling a single importer's diverse array of products, and to commercial fraud roles helping to make commercial fraud cases—everything, in other words, but the duty of reviewing entries which would ensure proper enforcement of the Nation's trade laws.

In addition, Customs wishes to centralize and reduce the number of duty assessment locations, an action which would eliminate the import specialist's services at many ports and cut him off from the trade from which he derives his expertise.

We believe that Customs management has embarked on a misguided and ruinous course in commercial trade law enforcement, with the bypass system, automated broker interface, and the new import specialist policies. We urge this subcommittee to intervene to reestablish enforcement on the basis of import specialist review of entries, and to require that any new system be fully tested, evaluated, and approved by this subcommittee prior to implementation.

We make the same recommendation with respect to the Accept system for designating shipments to be inspected. Accept is a bypass system which allows shipments to be released without any inspection whatever.

Theoretically, a computer is supposed to designate which shipments are high risk and which are low risk. But in reality, Customs is in the dark about which shipments to inspect, and the decision is best left to the inspector/import specialist team. The subcommittee should require Customs to suspend implementation of Accept until it has developed far more knowledge of the criteria for identifying high risk shipments, and has tested and evaluated an alternative system.

The administration's fiscal year 1986 budget request is totally inadequate to the crisis in trade law enforcement that exists today.

The administration requests a reduction of 437 positions in tariff and trade functions, including 244 import specialists. In the face of a $40 billion compliance gap, we cannot continue to by pass 60 percent of entries and inspect less than 1 percent of containerized shipments. The urgent need is to add Customs cargo processing positions. This would not only protect U.S. manufacturers from illegal competition, it would also collect a large amount of additional revenue that would help reduce the Federal deficit.

Since 70 percent of entries are dutiable and only 40 percent are now being reviewed by import specialists, a large amount of revenue is potentially escaping attention. NTEU has computed that by adding 1,200 more commercial cargo processing positions—consisting of 900 inspectors, 260 import specialists, and 40 special agents—to process 975,000 additional entries, $1.1 billion could be collected. The cost of the additional personnel would be $48.4 million, in anybody's view, a wise investment.

The inspectors would, of course, perform narcotics interdiction as well as trade enforcement functions.

We recommend that the goal of adding 1,200 positions be achieved over a 2-year period. For fiscal year 1986, we recommend the addition of 650 positions over the fiscal year 1985 level, including 400 inspectors, 150 import specialists, 50 Customs Patrol officers, and 50 special agents.

Appended to our testimony are tables that summarize what I have presented today. Tables 1 and 2 provide estimates of the commercial fraud and illicit narcotics threats to this country. Table 3 summarizes our budget recommendations for fiscal year 1986.

First, we recommend restoration of the 887 positions cut by the administration at the cost of $46.6 million. Second, we recommend 650 additional positions at a cost of $30.4 million. The total amount of $77 million and 1,537 positions are added to the President's budget request, yielding our recommended figure of $716 million and 14,068 positions.

The remainder of our statement discusses policy issues in the areas of primary inspection, consolidation, cargo processing, overtime, centralization of entry processing locations, and other areas on which the subcommittee wishes to be kept well informed.

I appreciate, again, Mr. Chairman, your interest and I would be pleased at this point and at this time to take any questions you might have.

[The prepared statement follows:]

STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Mr. Chairman and Members of the Subcommittee, I am Robert M. Tobias, President of the National Treasury Employees Union. With me are Paul Newton, Director of Legislation and Paul Suplizio, legislative consultant to NTEU. As the exclusive representative of over 120,000 Federal workers, including virtually all employees of the U.S. Customs Service worldwide, we are pleased to appear before the Trade Subcommittee to present our views on the authorization of appropriations for the U.S. Customs Service for Fiscal Year 1986.

Mr. Chairman, I'd like to inform you that with us today are several Customs Inspectors and Import Specialists who are in Washington to attend NTEU's annual legislative conference. These individuals are the backbone of the Customs Service, men and women on whom our nation relies to protect its borders. I am pleased they could be here this morning.

A crisis of enforcement, long in the making, confronts Customs today. In 1984, sharply rising narcotics traffic made supplies of illicit drugs more abundant than ever, and a huge trade compliance gap brought $40 billion in illegal imports to our shores.

By all indicators, 1984 was a disasterous year for Federal narcotics interdiction efforts. Heroin purity and availability rose. Cocaine supply increased and its street price fell, encouraging its growing abuse by all income groups. While marijuana use has leveled off and actually declined among young people, over 20 million persons are using marijuana regularly.

Drug seizures are larger than ever, which is a credit to Customs, DEA, Coast Guard, and local law enforcement agencies. But larger seizures are also indicators of greater trafficker activity, which means that deterrence is not working. Cocaine supplies have been increasing at the rate of 30 percent a year, and marijuana at a 7% rate. No more than 10 percent of the cocaine and heroin, and 16 percent of the marijuana supply is being interdicted.

There is abundant evidence of the social costs of this traffic in the crime rate, in the job market, in schools and treatment facilities. When a firm in the State of Washington advertised for 750 workers, it was amazed that half failed a test for marijuana use. Here at home, we learn that Montgomery county high school seniors have a rate of cocaine abuse twice the national average. City Councilman John Ray recently pleaded with D.C. residents to eliminate drug abuse which is, in his words, "a form of genocide in the black community." Last month, the U.S. Supreme Court (in New Jersey v. T.L.O.) gave school officials broad power to search students because, said the Court, drug use and violence in the schools are major social problems.

The confrontation with narcotics traffickers has exploded into open warfare. DEA agent Enrique Camarena was abducted recently in Gudalajara, Mexico. We strongly condemn this outrage, and urge the Federal government to make every effort to ensure his abductors are brought to justice. The Minister of Justice of Colombia was assassinated by the drug mafia and the State Department has warned Americans traveling to that country of possible violence. The drug lords in Colombia, Bolivia, and Peru are growing record crops and boldly challenging the central government. Mexico's Narcotics Control Directorate lost seven agents last month in clashes with the estimated eighteen major drug trafficking gangs active there. A United Nations panel reported that drug trafficking organizations now threaten the security of some countries. They and the international terrorists attempting to cross our borders require constant vigilance by Customs Inspectors.

An idea of the dimensions of the drug threat is provided by the Mexican government's raid on a Chihuahua province marijuana depot last November. It resulted in seizure of 9,000 tons of marijuana—an amount equal to the annual output of Colombia, the world's largest producer. Police confiscated dozens of truck trailers and freight containers and arrested more than 11,000 marijuana pickers, packers, and warehouse workers.

A casualty of the resurgent drug trade has been the National Narcotics Border Interdiction System, headed by Vice President Bush. The system consisted of coordinating groups set up in six major cities to better direct the Federal interdiction effort. The difficutly is, as the General Accounting Office has pointed out, a coordinating agency is useless without sufficient assets. The resources of NNBIS are in no way adequate to the task it faces.

Customs Inspectors and Patrol Officers continue to account for a large percentage of total drug interdiction. According to the Select Committee on Narcotics Abuse and Control, Customs Inspectors are responsible for making 57 percent of heroin seizures, 59 percent of cocaine seizures, 70 percent of hashish seizures, and 80 percent of marijuana seizures. Air and Marine Patrols account for large cocaine and marijuana seizures. However, despite recent improvements in the air program, the Government Operations Committee has reported that Customs lacks the operational capability to detect, intercept, and seize drug intruder aircraft on other than a sporadic basis.

In the face of this crisis, the Administration has requested a reduction of 411 positions in Customs drug interdiction functions for FY 1986. Of these, 206 are Inspector positions. This is the fifth consecutive year in which Congress has had to deal with a totally unrealistic budget request from this Administration. Customs drug interdiction resources have remained static since 1975, and what is needed is a significant increase to deal with the threat as it exists today.

If we are to make headway against traffickers who have demonstrated enormous versatility in shifting their operations from point to point along our 26,000 mile frontier to avoid detection, there is a critical need for additional Inspectors to deter traffickers from smuggling drugs by means of couriers and cargo shipments. This would leave direct air and sea movement as the sole means of border penetration, and traffickers would be vulnerable to our defenses in these areas provided we ensure adequate interdiction capability. At present, trafficking is so extensive and we are so lacking in Inspectors, and in air and marine capability, that the five Gulf Coast governors have called for turning the drug interdiction mission over to the Department of Defense.

We believe that a single agency should have charge of the nation's borders, and that agency should be Customs. We assume the Cabinet Council on Management and Administration will renew its proposal for consolidation of primary inspection responsibility at air and sea ports in Customs and at land border ports in INS. We strongly object to the fragmentation of narcotics enforcement by assigning primary inspection responsibility at land border ports to INS. Customs already fills a majority of the positions at those ports, and we believe INS lacks the ability to perform the drug enforcement missions. We urge the Subcommittee to move for immediate consolidation under Customs at air and sea ports, while maintaining the status quo at land borders until the air/sea consolidation can be evaluated. We believe the merit of having a single enforcement communications system applicable to all persons regardless of mode of arrival will clearly demonstrate the effectiveness of consolidation within Customs at land border ports.

A second aspect of the enforcement crisis we face is the commercial trade compliance gap, representing nearly $40 billion in unreported and counterfeit goods illegally entering the country, including goods such as steel and textiles entering in violation of specific trade agreements. This compliance gap poses an enormous burden of illegal and unfair competition upon American producers, costing an estimated one million jobs and $3 billion in lost revenue from duties.

The largest part of the compliance gap, $25 billion or 65 percent of the total, consists of unreported goods that go undetected due to insufficient cargo processing staff. Vehicles, vessels, and containers of all types are capable of carrying unreported goods. Another $12 billion or 31 percent consists of counterfeit products. In hearings last year, the House Energy and Commerce Committee exposed the grave danger, both to the economy and to the health and safety of our citizens, of phony drugs, aircraft parts, and other goods of inferior quality parading under an accepted brand name.

With merchandise entries soaring twenty percent last year as the nation recorded the largest trade deficit in its history, Customs (with resources that have remained static since 1975) elected to by-pass 60 percent of the entries, meaning entry documents were not subject to Import Specialist review to ensure proper valuation, tariff classification, and compliance with trade law requirements. In addition, Customs allowed 99 percent of containerized shipments (which comprise 70 percent of seaborne cargo) to enter without inspection. This sharply reduced enforcement placed importers on a virtual honor system, and is one of the principal causes of the trade compliance gap.

Further contributing to the compliance gap were the misguided judgements of Customs management. Unable to cope with the rising volume of entries, Customs has sought to make the honor system its basic principle of commercial clearance. Entries are accepted and duties collected as submitted by brokers, with audits used later to verify compliance. The principle vehicle for accomplishing this is the automated broker interface (ABI), by which brokers' computers transmit entry data to Custom's computers without Import Specialist review.

We believe this is giving away the store. Customs has documented a long history of significant broker errors: undervaluations and misclassifications that reduce duty and circumvent quota restrictions This is not surprising because brokers, by tradition and instinct, wish to keep duties as low as possible and there has long been a game of cat and mouse between Customs and brokers. With over 10,000 tariff code classifications, and the possibility of classifiying a product in more than one way, the opportunity for self-serving judgements—unrestrained by any Customs review except post-audit—would not adequately protest the revenue. Moreover, many tariff classifications can only be properly determined by laboratory analysis, and this cannot be accomplished with integrity after a shipment has entered the stream of commerce.

Last year, correction of broker errors through change liquidations alone resulted in collection of $180 million in additional revenue. Correction of errors through pre-entry review of entry documents generates another $50 million. Broker errors are obviously not insignificant.

If a shipment is classified to get around a quota, the damage to the domestic market will have occurred by the time an after-the-fact audit takes place. Import Specialists need to make admissability determinations and sample the shipment before goods enter the stream of commerce. They can detect quota errors and keep out harmful products, such as chemicals and medicines, that could endanger the public if allowed to enter freely. The idea of allowing the importer to be the judge of admissability is an abdication of responsibility by Customs.

It should be clear from the experience with by-pass to date that an honor system won't work. Since by-pass was instituted in FY 1983 the country has been deluged with unreported goods and counterfeits. The signal that something was wrong came from the affected industry, which had to hire its own investigators to convince Customs that it was losing business and jobs. A post-audit system, can't undo the damage from allowing illegal goods to enter the stream of commerce.

Under an honor system there is a reduced need for Import Specialists to review entry documents. Hence Customs has been trying to eliminate the corps of Import Specialists who are the very backbone of commercial trade law enforcement. As a result, Import Specialists are demoralized. Their expertise, acquired from specializing in a single commodity line, enables them to make proper classification, valuation, and admissability decisions. Without such expertise, the Customs Service would not be on a par with brokers and others in the trade. But because Customs lacks a clear concept for use of the Import Specialist, they are now being assigned to more than one commodity line, to "account specialist" roles handling a single importer's diverse array of products, and to commercial fraud roles helping to make commercial fraud cases. Everything, in other words, but the duty of reviewing entries which would ensure proper enforcement of the nation's trade laws.

In addition, Customs wishes to centralize and reduce the number of duty assessment locations, an action which would eliminate the Import Specialist's services at many ports and cut him off from the trade from which he derives his expertise.

We believe that Customs management has embarked on a misguided and ruinous course in commercial trade law enforcement, with the by-pass system, automated broker interface, and the new Import Specialist policies. We urge this Subcommittee to intervene to re-establish enforcement on the basis of Import Specialist review of entries, and to require that any new system be fully tested, evaluated, and approved by this Subcommittee prior to implementation.

We make the same recommendation with respect to the ACCEPT system for designating shipments to be inspected. ACCEPT is a by-pass system which allows shipments to be released without any inspection whatever. Theoretically, a computer is supposed to designate which shipments are "high risk" and which are "low risk". But in reality, Customs is in the dark about which shipments to inspect, and the decision is best left to the Inspector/Import Specialist team. The Subcommittee should require Customs to suspend implementation of ACCEPT until it has developed far more knowledge of the criteria for identifying "high risk" shipments, and has tested and evaluated an alternative system.

The Administration's FY 1986 budget request is totally inadequate to the crisis is trade law enforcement that exists today. The Administration requests a reduction of

437 positions in Tariff and Trade functions, including 244 Import Specialists. In the face of a $40 billion compliance gap, we cannot continue to by-pass 60 percent of entries and inspect less than 1 percent of containerized shipments. The urgent need is to add Customs cargo processing positions. This would not only protect U.S. manufacturers from illegal competition, it would also collect a large amount of additional revenue that would help reduce the Federal deficit.

Since 70 percent of entries are dutiable and only 40 percent are now being reviewed by Import Specialists, a large amount of revenue is potentially escaping attention. NTEU has computed that by adding 1,200 more commercial cargo processing positions (consisting of 900 Inspectors, 260 Import Specialists, and 40 Special Agents) to process 975,000 additional entries, $1.1 billion could be collected. The cost of the additional personnel would be $48.4 million. The Inspectors would, of course, perform narcotics interdiction as well as trade enforcement functions.

We recommend that the goal of adding 1,200 positions be achieved over a two-year period. For FY 1986, we recommend the addition of 650 positions over the FY 1985 level, including 400 Inspectors, 150 Import Specialists, 50 Customs Patrol Officers, and 50 Special Agents.

Appended to our testimony are tables that summarize what I have presented today. Tables 1 and 2 provide estimates of the commercial fraud and illicit narcotics threats to this country. Table 3 summaries our budget recommendations for FY 1986. First, we recommend restoration of the 887 positions cut by the Administration at a cost of $46.6 million. Second, we recommend 650 additional positions at a cost of $30.4 million. The total amount of $77 million and 1,537 positions are added to the President's budget request, yielding our recommended figure of $716 million and 14,068 positions.

The remainder of our statement discusses policy issues in the areas of primary inspection consolidation, cargo processing, overtime, centralization of entry processing locations, and other areas on which the Subcommittee wishes to be kept informed. A summary of NTEU's recommendations is included at the end.

INSPECTION AND CONTROL

Customs/INS consolidation

The Reagan Administration has announced a major policy decision to consolidate responsibility for primary inspection of incoming persons in the U.S. Customs Service at air and sea ports, and in the Immigration and Naturalization Service at land ports of entry. We know this Subcommittee will play a leading role in giving this proposal careful scrutiny, because of the vital interests affected and the Reagan Administration's apparent inability to referee the competing claims of the Treasury and Justice Departments.

There are many vital interests at stake in the design of an effective primary inspection system. Custom's Inspection and Control mission includes interdicting traffic in drugs, curbing illegal immigration, serving a growing domestic tourism industry, safeguarding American agriculture, controlling the export of critical technology, and enforcing currency controls, endangered species and environmental laws, and many other laws and regulations. Any streamling of federal inspectional responsibilities must enhance our ability to accomplish these missions to protect our vital interests.

Speaking on behalf of the employees of the U.S. Customs Service, I have no doubt that assignment of primary inspectional responsibility to Customs at air and sea ports is sound and should be approved. A natural evolution in this direction has been underway for some time. The one-stop inspectional system in effect at many ports has required Customs Inspectors to carry out INS functions in processing travelers from abroad. To back up these duties, Customs has expanded its automated Treasury Enforcement Communications System (TECS). It is also experimenting with passport optical scanning equipment.

Customs Inspectors now outnumber INS Inspectors at all land border ports by 1,100 to 800, and are processing 58 percent of the traffic.

In the Southwest and California, Customs Inspectors and Patrol Officers play a vital role in curbing illegal immigration. Most of the foreign tourist and business traffic, and some of the illegal immigrant traffic flows through cities and land ports of entry. At land ports, all inspectors are one-stop, that is, the requirements of both agencies are enforced by a single Inspector. Customs Inspectors are inspecting millions of pedestrians and vehicles at border crossings each year, performing both Customs and Immigration functions.

We are dismayed at the Administration's failure to assign primary inspection responsibility at land border ports to Customs. We have no doubt that Customs Inspectors can carry out this responsibility, backed up by an INS secondary, as effectively at land border ports as at air and sea ports.

A way the Border Patrol could be provided the increased resources it requires would be for Customs to assume primary inspectional responsibilities at land border ports. The Border Patrol could then concentrate on its primary mission of apprehending illegal aliens between ports of entry, while Customs conducted primary inspection of travelers at the ports themselves.

Indications are that INS is spread too thin to be charged with carrying out the Customs primary inspection mission at land ports. The difficulty the agency has experienced in automating its files, rendering timely services, and coping with foreign students and professionals who come in legally and then overstay their permits, is well-known. According to John Crewdson, who won a Pulitzer prize for his stories on immigration in the New York Times, INS is stretched thin to transparency and stuck in its past. Fairly or unfairly, he calls it "the most Kafka-esque labyrinth thus far devised by government."

It is frequently noted that Customs, as the nation's primary border management agency, has had delegated to it by 40 other government agencies the responsibility for carrying out the laws and regulations of those agencies at the border. Customs has a broad and diverse mission as contrasted to the single mission of INS. We believe it would be far easier to train Customs Inspectors to absorb INS responsibilities at the border, than the reverse.

Transfer of primary inspection responsibilities to INS at land ports would be highly disruptive of major programs such as narcotics interdiction, Exodus, and currency control. It would require 40 different agencies to deal with INS concerning their enforcement requirements, virtually doubling the amount of coordination required since they would have to deal with two agencies rather than one. Such fragmentation of responsibility in border enforcement would not make sense.

Consider the plight of the importing community at all but the largest land ports on our Northern and Southern borders. Responsibility for inspecting commercial cargo transiting these ports would of necessity fall to the local INS port director, who would be required to process merchandise trade now handled by an experienced Customs Inspector-Import Specialist team. Since inspections would be made by INS, and entry documents would go to Customs, the fragmentation of responsibility in processing this trade is apparent.

Customs reponds to the requirements of other law enforcement agencies by apprehending fugitives from justice. Each year Customs apprehends more wanted felons than any other law enforcement arm in the country. This is made possible by the training Inspectors receive, and by the modern Treasury Enforcement Communications System (TECS), which accesses the wanted persons, stolen vehicles, and other intelligence of the National Criminal Information Center. TECS permits rapid automatic search of over a million files. By contrast, the INS Lookout Book contains 60,000 manual entries, all of which are in the TECS data base. By training, number of in-place staff, and enforcement support systems, Customs is far better prepared to assume the primary inspection mission at land ports.

It should be remembered, too, that inspection of travelers for immigration purposes is a straightforward procedure. Of the 180 million aliens who present themselves for entry each year, no more than .3 percent are denied permission as a result of border inspection. The dimensions of the illegal immigration problem require much more enforcement capability between ports of entry than at those ports.

Only 12 percent of persons entering the country arrive at air and sea ports, the remaining 88 percent enter through land ports. If real progress is to be made in protecting the vital interests we have outlined, a single agency should have primary responsibility for all ports of entery. Customs' missions is exclusively border management. It is prepared to assume primary responsibility at our land ports, where it is already doing the bulk of the job.

There would be far-reaching benefits to moving to a single border management agency. These benefits would stem from the ability to standardize forms and procedures, and to apply modern technology to border clearance. The passport, visa, I-94 form, and baggage declaration presently used by the two agencies in the inspection process could be consolidated and automated to provide vast grains in facilitation, enforcement, and cost savings.

Combining the I-94 form with the Customs baggage declaration would eliminate millions of forms each year. Airlines could be provided with optical scanning passport terminals which would eliminate the need for their collecting the second copy of the I-94 on the alien's exit from the country. This would be a feasible way of gaining a reasonable degree of control over aliens entering and overstaying their visas or violating the terms of those visas.

In addition, with development of a machine-readable passport the primary Inspector would no longer have to enter a TECS query and primary inspections could be completed more smoothly and efficiently.

The consequence of not consolidating border management in a single agency nationwide is not merely the continuation of costly and redundant systems and paperwork. It means that government, industry, and the public will not realize the benefits and efficiencies that could be achieved through full consolidation.

Let me outline the Administration's specific plan, so you can better grasp its full dimensions.

At the present time, Customs has 900 positions committed to inspection at air and sea ports, and 1,064 positions at land ports. INS has 719 positions committed to inspection at air and sea ports, and 800 positions at land ports. If the Administration's plan is approved, Customs will absorb all but 214 positions of the INS positions at air and sea ports (including pre-clearance). The 214 positions would be for INS secondary inspections. At land ports, INS would absorb all but 426 Customs positions, which would be used for secondary inspections.

INS would thus gain 638 positions from Customs at land ports. The workload would not change. For the most part, the people doing the work would not change. Essentially, there would be a swap of uniforms.

Customs would similarly gain 442 positions at air and sea ports. Overall, there would be a net loss of 200 positions from Customs to INS, reflecting the fact that Customs has a greater commitment at land ports. This information is shown in Table 6, appended to our statement.

What budgetary savings are claimed for these transfers? Customs would lose 638 positions and $24 million; however, these resources would be transferred to INS. By the same token, INS resources at air and sea ports would be transferred to Customs. The net effect: 0. The government claims not a dollar of savings for its proposal!

The reason is that the proposal before us is a compromise, and was deliberately labeled as such by OMB when Treasury and Justice could not agree. By contrast, the senior working group that developed options for the Cabinet Council's consideration produced five options, all but one of which entailed budgetary savings.

These options were: 1) consolidate primary inspections in Customs; 2) consolidate primary inspections in INS; 3) consolidate primary inspections at airports in Customs, status quo at all other ports; 4) consolidate primary inspections at land ports in INS, status quo at all other ports; and 5) consolidate full responsibility for passenger inspections in INS and retain responsibility for cargo inspection in Customs.

Of these options, it is significant that the one with the greatest savings, and therefore the most cost effective, was the first, consolidation of primary inspections in Customs. According to Customs, Option 1 would save 973 staff-years and $27 million. INS disputed these figures by maintaining that if Customs took over primary inspections, INS would require additional positions for secondary inspections. However, this view was contrary to the working group's assumption that, through proper training, no additional resources for secondary would be required.

Customs performed a detailed study of the additional resources required at each port of entry for full consolidation within Customs. It concluded that with 518 additional positions and no additional overhead it could assume primary inspection mission at all ports. These 518 positions are less than half the amount presently expended by INS on primary inspections, so there would be substantial savings from full consolidation within Customs. After subtracting $10 million required to fund these 518 positions, the Working Group estimated annual savings of $27 million from this option.

Later, Customs stated that it could assume the entire primary inspectional mission with *no* increase in resources. This would make the annual savings a minimum of $37 million, not counting future gains from streamlined procedures and consolidation of support systems and other overhead.

In its study, Customs found that with only 286 additional positions it could take over the entire inspectional mission at land ports. There would be no requirement for additional overhead or support systems, which were already in place. Customs would simply absorb immigration inspections at considerable productivity savings, in the same manner that it has taken on responsibilities for 40 other agencies at the border.

By contrast, if the Administration's proposal is adopted, savings would be zero and the nation would end up with two border management agencies. As the draft Memorandum of Understanding between Customs and INS makes clear, INS would not only have responsibility for primary inspection of persons at land borders, but it would also have primary responsibility for all inspections, other than cargo inspections at the largest ports. At small ports, there will be no Customs presence and INS will inspect and process documentation for commercial merchandise. INS will perform both primary and secondary inspections to meet Customs' requirements with respect to commercial cargo.

At larger ports, there will be a Customs secondary to inspect and process cargo. But the INS port director will have sole responsibility for primary inspection of all traffic so Customs will lack on-the-spot authority to insure control over cargo so that its requirements and those of other agencies are met. This situation would be highly disruptive of narcotics, commercial fraud, Exodus and other programs Customs is charged with enforcing.

Only at the largest ports (Detroit, Port Huron, Buffalo, Lewiston, and Champlain) would Customs continue to inspect commercial trucks entering designated commercial vehicle primary lanes, and process all cargo.

The Memorandum of Understanding makes INS the exclusive authority in dealing with the independent governing bodies that control the flow of traffic across the U.S. border with respect to the primary processing of private passenger vehicles, taxis, buses, pedestrians and passenger trains. It makes Customs the exclusive authority in dealing with the independent bodies that control the flow of commercial trucks across the U.S. border into the primary or otherwise designated lanes. Without doubt, the Administration's proposal would continue to divide responsibility for enforcement at our land borders, and do so in a manner that is highly disruptive of existing Customs programs.

The Administration's proposal also perpetuates wasteful duplication between Customs and INS. Under the Memorandum of Understanding, each agency maintains responsibility for its existing enforcement support system (TECS for Customs and Service Lookout Book/Central Index for INS), and each agency is authorized to continue to develop systems that will enhance primary inspection. This duplication would be avoided if primary inspection at all ports were consolidated in a single agency. Moreover, INS presently lacks an automated system except at one airport, so making Treasury the single manager for enforcement support systems is an obvious solution.

Let me now recapitulate the arguments for consolidation of primary inspections entirely within Customs.

First, Customs is the nation's principal border management agency. It carries out responsibilities for 40 other agencies, and can do so for INS. There should be a single agency charged with border inspections.

Second, Customs is better prepared than INS to do the job. It has more Inspectors than INS at all ports of entry. It is now performing 60 percent of all immigration primary inspections.

Third, border management is Customs' sole business, whereas INS has other responsibilities. INS devotes minimal resources to border inspection because only .3 percent of those inspected are denied entry, and the principal threats it must counter are aliens crossing between ports of entry and overstaying their entry visas.

Fourth, consolidation within Customs is the most cost-effective of the options available, with minimum savings of $27-37 million annually, according to data developed by a senior working group chaired by OMB.

Fifth, there is a large potential for future savings through streamlining forms and procedures, new technology, and new enforcement and facilitation techniques. The potential saving is less if consolidation extends to air and sea ports alone, which handle 12 percent of traffic, or if consolidation is divided between Customs and INS as in the Administration's proposal.

Sixth, consolidation within Customs will, during off-peak hours, provide additional staff for cargo inspection, thereby strengthening narcotics and commercial fraud enforcement programs. INS claims that this is off-set by its loss of capability to process aliens' claims and other adjudications which are processed by Inspectors during downtime, but its own studies have shown that distributing adjudication workload to ports to fully utilize Inspector downtime is an efficient means of processing such workload.

Seventh, Customs has automated enforcement support systems, including TECS and intelligence support, in place and a long track record of developing such systems, whereas INS has little or no such experience.

Eighth, consolidation within Customs is the least disruptive and easiest to implement because it maintains continuity with 40 other Federal agencies whose border interests Customs represents, and it does not require carriers, port operators, and the business community to deal with two agencies instead of one.

Ninth, overtime costs to the government would be reduced by an estimated $1.5 million per year through carrier reimbursement of inspectional overtime.

Tenth, immigration inspection is a straightforward process which Customs Inspectors are already performing; they can more readily take on immigration inspection than having INS become involved in merchandise inspection, narcotics enforcement, Exodus, and the requirements of 40 other agencies.

The obverse of these points is that consolidation in INS would be an unrealistic solution. It would fragment total border inspection responsibilities to an ever greater degree, double the need for coordination for the 40 agencies requiring border support, give INS extensive new responsibilities which it is ill-prepared to absorb, and reduces narcotics enforcement at the worst possible time. It would reduce efficiency by maintaining redundant enforcement support systems, requiring the public to deal with two large border agencies whose interests may often conflict, and reducing the ability to shift resources between passenger and cargo inspection. When one considers the massive illegal immigration problem between ports of entry, and the major new tasks INS will confront if Simpson-Mazzoli is enacted, it becomes clear that consolidation in INS would be unwise. The nation needs a single border management agency, not two.

Nevertheless, INS has opposed consolidation within Customs. INS has argued that this option would: 1) fragment immigration procedures between two agencies and thus weaken immigration control at a time when document fraud is pervasive; 2) give Customs primary control of 61 percent of travelers who are aliens and should be under INS control; 3) require increased staff for INS secondary inspections resulting from more secondary referrals when Customs Inspectors perform primary inspections; and 4) require increased staff to process adjudications if primary inspectors cannot be utilized during downtime.

These arguments do not hold water. The major immigration threat is between, not at, ports of entry. While INS has an interest in 61 percent of the travelers who are aliens, Customs has an interest in 100 percent of them from the standpoint of narcotics, agriculture, public health and other enforcement requirements. Given that in excess of 500 experienced INS Inspectors would voluntarily transfer to Customs, and Customs Inspectors would receive additional immigration training, there is little basis for presuming a sharp increase in secondary referral. Finally, since consolidation could take place with little or no shift of funded positions from INS to Customs, INS would be left with sufficient positions to discharge its adjudications workload.

The times demand a single U.S. border inspection agency. This will permit INS to concentrate on the crux of the illegal immigration problem, border crossing between ports of entry. This Subcommittee can strike a blow for both stronger enforcement of the narcotics and trade laws, and stronger immigration control, by adopting our proposal.

Adequacy of inspectors at ports of entry

According to the U.S. Travel Data Center, visitors from abroad contribute more than $12 billion annually to the United States economy, generating over $1 billion in Federal, State, and local tax revenues and supporting 320,000 jobs. We have a national policy of encouraging foreign visitors to this country. Foreign visitors are now coming to the U.S. at the rate of 20 million a year, about 8 million from overseas and the remainder from Canada and Mexico.

This country has too much to lose by imposing roadblocks to the expansion of our tourism industry. Yet, as any visitor to our international air terminals and many other ports knows, even during peak hours many Customs processing lanes are closed for lack of staff.

The U.S. market share of international tourism has been falling in recent years. According to the Travel and Tourism Government Affairs Policy Council, the United States now gets only 8 percent of foreign tourists. A principal deterrent, according to the Congressional Tourism Caucus, is the long Customs lines that greet foreign visitors. The Air Transport Association, after a thorough survey, found that a minimum of 236 additional Inspectors was needed at airports alone.

In addition, many land border ports are still experiencing long lines during peak hours. Each year on the floor of the House, the Congressional delegation from Texas had demanded additional Inspectors for the ports of that State. Were it not for the economic crisis afflicting Mexico at the present time, and drying up much of the tourist traffic, the situation in the Southwest would be much worse than it is at present.

Red/Green passenger clearance system

At several international airports, Customs has introduced a new passenger clearance system, known as Red/Green. The theory behind this system, which Customs seems to be touting as the wave of the future, is that by giving passengers the opportunity to self-select either the green lane (no Customs items to declare) or the red lane, passenger facilitation is improved without reducing enforcement. The system is augmented by roving Inspectors who monitor passengers both in primary lanes and baggage areas, and who may designate individuals for immediate by-pass or for detailed secondary inspection.

This system, like many Customs has introduced in the past, might work if sufficient numbers of Inspectors were available. For any system to work, there must be adequately staffed primary lanes and an adequately staffed secondary. In the Red/Green system, there must be sufficient numbers of Inspectors to conduct primary inspection of passengers selecting green lanes as well as red lanes.

To start with an insufficient number of Inspectors, an inadequate secondary, a few rovers, and a handful of green lanes where passenges are whisked through with only cursory examination because to do otherwise would create a log-jam or a riot, is simply non-enforcement disguised as "selectivity". Customs management is insisting that putting passengers on the honor system, with inadequate primary and secondary inspection, and general supervision by a few roving Inspector is the answer to clearing the terminal before the next wide-body jet comes in.

The gain in passenger facilitation is much approved by the airport operators and carriers. It is only our country that suffers from lack of an effective deterrent against drug smugglers, terrorists, and criminals of all types. The only answer to adequate facilitation and enforcement is to provide an adequate staff.

Our Inspectors are doing a splendid, courageous job. the trouble is there are not enough of them. Customs touts their seizures of narcotics and other contraband as proof that enforcement has not flagged. This praise is merited. But Customs management should come clean and tell the full story, what is not being intercepted, what is getting through.

I'd like to read a brief passage from a letter our New York Chapter wrote to Customs management officials:

"On Tuesday, October 25, 1983, twelve Inspectors faced 1,447 passengers on one side of the Pan Am terminal. The passengers all arrived within 25 minutes. Once again, Inspectors refused to risk generating a riot and succeeded by ignoring their jobs."

Only adequate staff will allow a proper test of Red/Green. We trust the Subcommittee will approve our recommendations for additional Customs Inspector positions.

ACCEPT

The vast amount of commercial fraud designed to evade tariffs or quotas, to avoid anti-dumping or countervailing duty penalties, or to procure entry of counterfeit products has been amply documented by the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee. The loss to U.S. firms from counterfeit products alone has been estimated by the International Trade Commission as $6–8 billion annually. Much of this loss could be prevented if adequate numbers of Inspectors were available to inspect commercial cargo at our ports of entry.

One of the best indicators available of the adequacy of cargo inspection is the rate of inspection of containerized shipments. Large containers now account for more than 70 precent of U.S. seaborne commerce, and are a growing proportion of air and surface shipments. In FY 1980 Customs performed a total of 81,234 inspections on a total of 2,800,000 arriving containers, for an inspection rate of 2.9 percent.

Since that time, the inspection rate has fallen as Customs introduced "selectivity" in cargo inspection through the ACCEPT program. ACCEPT, which stands for Automated Cargo Clearance and Enforcement Processing Test, is an area where Customs is moving headlong toward adoption of a new inspection system without proper evaluation of the impact on enforcement. The idea behind ACCEPT is that since Customs can make only a limited number of inspections, these should be concentrated on "high risk" shipments where the pay-off is potentially greater for the resources expended.

The problem is how to determine which are the "high risk" shipments. It is not possible to set up a computerized system for fingering the shipments to be checked, as ACCEPT attempts to do, without a great deal of data collection and construction of profilies of the characteristics of "high risk" shipments and "high risk" importers. There is no evidence that Customs has collected this data and constructed the profiles, let alone tested them. What we can expect from this system is"garbage out". The system will do a less than adequate job in guiding Inspectors to the shipments that need checking.

Since there are too few Inspectors, ACCEPT is a rationalization for performing fewer and fewer inspections while commercial fraud mounts. Customs contends that enforcement has not suffered, pointing to the results obtained from the efforts of Inspectors and Contraband Enforcement Teams. But the House Commerce Committee's hearings on the volume of commercial fraud have reduced this claim to tatters.

The fact is that a certain minimum level of inspections are required to provide a sufficiently high probability of interception of illegal shipments. When staff is insufficient the limited number of inspections may indeed produce results, but when those results are extended over the entire population of shipments, they demonstrate that a massive amount of illegality is not being caught. Customs' use of "selectivity" is simply a rationalization of the circumstances in which it finds itself lacking an adequate staff to do an effective job.

ACCEPT is supposed to be a computerized system, with a central computer designating to the Inspector which shipments are to be inspected. In many ports, however, a computer hook-up is not available, or may not be functioning, so a "manual" ACCEPT has been instituted. This means a headquarters supervisor designates the inspections to be made. From the standpoint of enforcement, both computerized and manual ACCEPT are utterly untested systems. Their principle effect is to limit the number of inspections, thereby speeding the flow of mearchandise from docks to warehouses without inspection, greatly multiplying the opporunity for commercial fraud.

In order to implement ACCEPT, Customs had had to rewrite the Tariff Act of 1930. Section 499 of the Act requires inspection of not less than one package of every invoice and not less than one of every ten packages of imported merchandise. The law authorizes the Secretary of the Treasury to provide, by regulation, that a lesser number of packages may be examined when, in his opinion, the examination of a lesser proportion will amply protect the revenue. This provision allows the Treasury Secretary to reduce the number of inspections required, but not to totally abrogate the requirement for minimum inspection contained in the law. However, on September 10, 1981, Customs issued a regulation which allows the release of merchandise *with no inspection at all.*

Last year, we called for public hearings on ACCEPT and the related Customs regulation of September 10, 1981. We also urged this Subcommittee to bar any funds for implementation of ACCEPT until this panel is satisfied that the public interest is protected by adequate physical inspection of incoming cargo.

We again strongly urge the Subcommittee to act on this important matter. We also urge approval of additional Inspectors for cargo inspection and commercial fraud enforcement, as contained in NTEU's alternative budget (Table 3). We wish to note that the House Energy and Commerce Committee likewise recommends additional Inspectors for this task.

Operation Exodus

Operation Exodus was initiated by Customs in late 1981 to step-up enforcement of the export control laws. The FBI had discovered a pervasive pattern of activity by Soviet agents to obtain American technological secrets by means of bribes and other inducements. Their targets were lasers, fiber optics, computers, and telecommunications equipment.

The Senate Permanent Investigations Subcommittee after a two-year inquiry has confirmed that the Soviets are engaged in a massive effort to acquire Western technology by any means, and have been able to use such technology to modernize and speed the development of their weapons systems. Such advances require responses by our own military establishment, and this increases the size of our defense budget.

As a CIA report on this subject explains:

"It is clear that the Western military expenditures needed to overcome or defend against the military capabilities derived by the acquisition of Western technology far outweigh the West's earnings from the legal sale to the Soviets of its equipment and technology."

Examples continue to appear which demonstrate the need for this program. On February 4th 1985 it was reported that 17 Hughes helicopters, which can readily be converted to military use, were illegally diverted to North Korea by the West German distributor for Hughes. In addition, another 70 helicopters the same distributor purchased from Hughes are not accounted for and may also have been sold to North Korea.

Operation Exodus has scored some notable successes, but is handicapped by understaffing and lack of cooperation between Customs and Commerce. Only 292 staff-years are allocated to the program, and Commerce refuses to allow Customs access to its files on licensors. At the same time, Commerce has stepped up its enforcement efforts in the hope of becoming the border enforcement agency for exports. The export enforcement mission is further complicated by Customs' enforcement of the Munitions Control Act for the State Department. We urge this Subcommittee to take a strong stance in favor of a single agency—Customs—being in charge at our borders, and to communicate this position to the committees responsible for re-authorization of the Export Administration Bill.

Inspectional overtime

Inspectional overtime has become a critical resource for meeting Custom's growing demands for clearance of passengers and cargo. For nearly a decade, a virtually static inspectional force has had to process a growing number of air travelers and cargo shipments. With its workforce limited by OMB personnel ceilings, Customs inspectional overtime expanded to fill the gap between workload and resources.

An Inspector with overtime earnings of $15,000-$20,000 a year works an average of 62 hours a week, 52 weeks a year. A 1981 Customs study of overtime showed that, in addition to a normal 40-hour week, the average Inspector is required to work three of every four Sundays, one Saturday per month, and seven week-day overtime assignments per month. The requirement for this overtime is driven by the demand of carriers for Customs inspectional services during other than normal duty hours of the port. Because of the growing workload and limited staff, it is evident that an extensive commitment to inspectional overtime is essential if Customs is to accomplish its mission.

For Inspectors to make themselves available such long hours, particularly on Sundays and holidays when other citizens are vacationing, adequate monetary incentive must be provided. The most recent data collected by Customs shows that Inspectors are earning, on the average, 2.1 times the regular rate of pay on Sundays and 2.4 times the regular rate on the other days of the week. The Customs' study attributes the 2.4 rate of pay to the call-back of Inspectors who have left the worksite. Such call-backs frequently occur at night and at irregular hours, taking a physical toll on the Inspector. The study also confirms that the average Inspector works 7 hours on each Sunday assignement, and an average of 8 hours if holidays are included in this figure.

We are convinced that the frequent call-backs, the late-night hours spent away from home, and the physically demanding nature of inspectional duties justifies the present rate of overtime pay. Moreover, these rates of pay conform with the prevailing overtime rates in the private sector which normally established double time premiums for call-back and night work, and where the typical practice is triple time for Sunday overtime and double time and one-half for holiday work.

Nevertheless, the Administration has recommended a joint Customs/INS inspectional overtime bill which would establish the rate of pay for inspectional overtime essentially at time and one-half. We believe such provision would not only be unfair to Inspectors, but would reduce the incentive to continue to work long hours at a time when the Service is stretched thin and already lacks adequate staff. Such proposals only go to show how insensitive and callous this Administration can be. We would like to offer those who helped prepare this proposal the opportunity to work with a Customs Inspector for just one day at one of our airports. We believe they would begin to question the desirability of perpetuating this outrage. We urge the Subcommittee not to be deceived by their specious claims, and to firmly reject any attempt to modify the rates of pay specified in the Act of 1911.

We also urge the Subcommittee to remove the $25,000 cap on Customs Inspector overtime earnings. The overtime cap has long outlived its usefulness.

Proponents of the cap claim to be acting in the employee's interest by limiting the amount of overtime Inspectors could be compelled to work. However, the overtime cap had exactly the opposite effect and completely eliminated the voluntary aspect of overtime. This is because Inspectors are required to rotate overtime assignments so that the earnings of all can be equalized.

Prior to imposition of the cap, Inspectors were able to work out an allocation of overtime duty which took into account their personal needs. Inspectors who wanted to earn more money and were willing to sacrifice their free time or work late at night volunteered for overtime, while Inspectors who had family obligations or other commitments did not. And although this system lead to an imbalance in earnings, morale, efficiency, and productivity were greatly enhanced.

We strongly believe that employees willing and able to work overtime without foregoing family obligations should be permitted to do so, and that the burden of forced overtime should be minimized. Morale at the workplace is fostered by allowing individual preferences to play a greater role in the assignment of overtime, not by a rigid policy of equalization of earnings.

Customs itself has urged Congress to remove the overtime cap. Treasury Department officials have testified that, in addition to costing $1 million a year to administer, the cap is preventing Customs from properly allocating its limited resources among ports experiencing different rates of growth. It should also be noted that about 60 percent of all overtime is reimbursed to the government by the carrier which requests clearance after normal port hours.

Delegation of authority to waive the cap has been granted to Customs by Congress. We submit that the time has come to remove the cap completely, in favor of Customs internal controls. We strongly urge the Subcommittee to adopt this course of action.

Adequacy of inspectors for commercial fraud enforcement

Last year, NTEU conducted an analysis to determine the number of Inspectors required in containerized cargo processing essential to commercial fraud enforcement. Our analysis showed that in order to raise the number of inspections to 105,000 per year, 483 additional Inspectors would be required.

This year, NTEU performed a further analysis of Inspector requirements for cargo processing based on historic data showing a fairly constant ratio of entries to cargo processing based positions. This analysis is presented in tables 7-12 appended to our testimony. It shows that an additional 900 Inspectors would be required to process about a million additional entries now being by-passed, with a net revenue gain of $1 billion.

Many containers proceed in-bond to Customs bonded warehouses. Customs has removed its physical presence from bonded warehouses, in effect placing the warehouse proprieters on the honor system. We have urged the Subcommittee to halt this program, arguing that the potential for fraud, abuse, and scandal is huge. Our fears have now been amply borne out by the findings of the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee. That Subcommittee has urged re-establishment of the Customs warehouse program, with a permanent Customs presence at the warehouses. We fully support this move, and urge you to authorize the required resources, estimated to be 300 average positions.

Radio preliminary entry

We would like to bring to this Subcommittee's attention a new wrinkle in Customs management's attempt to obfuscate the woefully inadequate enforcement resources by instituting a new entry procedure touted as a "modernistic approach to an antiquated system". Called the "Radio Preliminary Entry" (RPE) it would allow masters of vessels to receive preliminary entry by radio-telecommunications or other electronic transmissions of manifest data obviating the physical boarding of the vessel by Customs officers. The procedure allows vessels to enter a port without the mandatory physical boarding in order to grant preliminary entry. Formal entry of the vessel must be made within 48 hours of arrival. It's but another example of opening our borders without physical inspection and is fraught with the potential of increasing the flood of narcotics and conterfeit goods into this country.

TARIFF AND TRADE

By-pass

NTEU has brought the growing shortage of Import Specialists relative to rising entry workload, and the disasterous policy of "by-pass" by which Import Specialists do not review 60 percent of entries, to the attention of this Subcommittee for the past four years. The dimensions of the problem have now become painfully obvious. Relative to Hitachi's attempt to acquire design information and component parts of IBM's latest generation of business computers, Chairman Dingell wrote Chairman Royal last week:

"As recorded on tape, the FBI undercover agent asked senior Hitachi engineers how they planned to get past Customs, what they believed to be stolen IBM component parts, which were the size of a pool table. Amidst laughter, the Hitachi officials stated that U.S. Customs is no problem."

Just recently, the U.S. International Trade Commission and the House Oversight and Investigations Subcommittee both released reports on the flood of counterfiet products entering the U.S. market. The ITC said that couterfeit goods cost U.S. companies $6-8 billion a year and the loss of 131,000 American jobs. The House Subcommittee said that the U.S. auto parts industry estimates that it loses $3 billion in sales each year because of counterfeit products and that "dangerously substandard parts" for helicopters have been faked. Said chairman Dingell:

"Any American who drives a car, flies in an aircraft or depends upon a wide range of medical devices, pharmaceuticals, or personal care products is placed in jeopardy because of substandard and dangerous foreign counterfeit products."

Calling funding for the Customs Service "woefully inadequate", Mr. Dingell said that "the decline in this country's international competitiveness is due, at least in part, to inadequate policing of our laws against illegal and unfair trade practices." The Reagan Administration's budget plan to cut the number of Customs employeer is "a form of fraud against the American worker and consumer." Last year, the Chairman recommended a $29 million increase above full restoration of the cuts.

Shocked into action by Customs' inability to deal with a torrent of fraudulent initations, many companies have hired their own investigators. Undercover witnesses at the Dingell hearings told how U.S. electronics technology is stolen, copied and exported back to this country. Apple Computer investigators indentified one plant in Taiwan capable of producing 3,000 fake Apple computers each month. When fake Apple computers appeared recently in Philadelphia, the company's agents tipped off Customs and a large quantity which had been shipped concealed as machinery was seized. The U.S. manufacturer of "Cabbage Patch dolls" led Customs to the importer of counterfeits which were unsafe by U.S. standards for flammability. Such efforts are a measure of the cost to U.S. industry of dealing with a problem that Customs lacks the resources to cope with.

Steel fraud is pervasive. The Chairman of the Steel Caucus, Senator John Heinz, told the Dingell committee that there are currently 40 active cases of steel import fraud under investigations. Describing the lack of physical facilities at U.S. ports for detecting fraud, and lax enforcement resulting in only minor slaps on the wrist, Senator Heinz concluded that:

"Investigations proceed at a snail pace, fines are inconsequential, convictions rare, resources shrinking and the deterrent nill. Our government has unwittingly issued an invitation to 'fraud without fear' ".

Senator Heinz pointed out that Commerce Secretary Baldridge had stated that aggressive enforcement of our trade laws could limit steel imports to 15 percent of the U.S. market. Customs' resources are inadequate to the task, and:

"Customs has compounded the problem by proposing a program to drastically reduce the manpower levels of Import Specialists at the same time it has proclaimed import fraud as an area of renewed emphasis. Import Specialists are essential to fraud detection and they need additional support, not lip service. And they certainly do not need cutbacks."

This view was echoed by the Dingell committee which said:

"When faced with the problem of unfair trade practices which result in a substantial loss of revenue to the government, the agency has apparently chosen to reduce entry document scrutiny rather than increase personnel."

The Dingell committee also faulted mis-utilization of Import Specialists which led to loss of expertise.

"Certain ports, notably Chicago, have adopted a system of rotating the Import Specialists' commodity assignments, thus reducing whatever expertise may remain. . . . In one port with a very large textile and apparel fraud problem, the number of Import Specialists has been reduced to three. In addition, one was given the assignment of monitoring apparel imports for most of the world after only one week's training. In another port which handles a large volume of steel, an Import Specialist with only a few months of experience and virtually no expertise in steel was given that commodity line. . . . Part of this system is the 'by-pass' program, under which the entry documents are not reviewed at all. There is great pressure on district directors to increase the number of entries on 'by-pass'. "By-pass' guidelines are built into the performance evaluation requirements for Import Specialists in some ports. Even where they are not, the 'by-pass' goals often exceed 70 percent of all entries of non-restricted merchandise. To me, this would appear to be a license to steal."

We believe that Mr. Dingell is dead right. Customs management seems determined to destroy the priceless expertise of the small corps of Import Specialists who are the nation's principal defense in these difficult times. By failing to fill Import Specialist vacancies, cutting off Import Specialists from the trade community by centralizing them at only a few ports, downgrading their role through by-pass systems, and introducing "import generalists" and "industry import specialists", Customs is gradually destroying the talent and expertise upon which the nation must depend to deter and prevent commercial fraud.

Centralization of entry processing

Import Specialists are the technical and commodity experts who are the backbone of the Customs' trade operations. Import Specialists review entry summaries, ensure proper classification of merchandise in accordance with the Tariff Schedules, ensure that shipments are valued properly, scrutinize importations of sensitive commodities to enforce applicable quota or anti-dumping and countervailing duty requirements, make determinations that products are admissible under U.S. law, and enforce the requirements of many other agencies, such as the Agriculture Department and Food and Drug Administration, to ensure that imports are safe for consumption.

Import Specialists ensure that duties are correctly calculated and timely deposited with the Treasury. They are responsible for collecting over $10 billion in annual revenue. It is well recognized by Customs that the more Import Specialists there are assigned, the greater the revenue collection will be.

Import Specialists are in daily contact with the business communities they serve. They hold office conferences with manufacturers and importers to explain U.S. trade laws and apply their intimate knowledge of legal precedents and rulings to complicated questions relating to proposed importations. They make over 8,000 visits a year to the premises of importers to view product samples, verify invoices, inspect product markings, and explain Customs requirements. These contacts with the business community are an invaluable contribution to the economic health of the region they serve. Moreover, they benefit Customs by assuring fewer errors in entry documents and fewer change liquidations (a "change liquidation" of an entry requires an upward or downward adjustment of the duty deposited when the entry documents were presented).

It goes without saying that the presence of one or more Import Specialists at a port of entry is of inestimable value to the business community, serves as a stimulus to foreign trade, and may even cause importers, brokers, distributors and warehouses to locate in the vicinity. The closure of Import Specialist offices would constitute a visible downgrading of the stature of the community as a port of entry, and raise justifiable fear of the loss of business to other regions. For example, in arguing against the transfer of two Import Specialists from Milwaukee, the port director told Customs:

"If we don't have a full customs service here we are deeply concerned that they (importers) might go to Chicago."

A city official stated that many industries located in Milwaukee because of the port, and:

"If you're saving peanuts by moving these people down there (Chicago) I can't see the reason for it. This could be very, very devastating to us."

An official of General Electric Company added that GE needed Import Specialists in Milwaukee because of the complex nature of the product line imported by the company.

"Face-to-face contact, understanding and education is critical to our business," he told Customs. GE estimated that elimination of the Import Specialists would cost the company $200,000 a year in additional broker fees, duties, communications, personnel and training.

We believe that loss of service to the business community is the paramount reason why the Subcommittee should reject Customs' plan to close down full-service entry processing offices at many locations. Customs has not taken adequately into consideration the effect upon the economic health of these communities, nor has it provided the economic impact statement required by executive order.

There are several other cogent reasons why centralization of entry processing is a bad idea. We would like to briefly touch on the most important of these.

First, Import Specialists' physical presence at ports is essential to ensuring that correct data is submitted on entries. One of the most important services of the Import Specialist is pre-acceptance review of entry documents. During these reviews, numerous errors are corrected that increase the number of "no change" liquidations and result in the collection of $53 million a year in added revenue—more than the cost of the entire Import Specialist work force.

A Customs survey of rejected entries conducted in May 1980 found that 16 percent of all entries reviewed by Import Specialists were rejected due to errors. Classification and valuation errors are the most numerous, and 549 entries of quota merchandise were erroneously presented as not subject to quota. In commenting on this last finding, the director of Customs' Office of Trade Operations stated:

"The unlawful entry of 549 shipments of quota merchandise would have had catastrophic repercussions."

As a result of pre-entry review of documents by Import Specialists, Customs saves large sums of money by not having to process change liquidation. Each change liquidation costs Customs approximately $20 to make. At present, about 70 percent of total entries are liquidated with no change. If pre-entry review is no longer performed for many importers and brokers because of the relocation of Import Specialists, the number of change entries is bound to rise significantly. A total of 7 million formal entries are anticipated by Customs in FY 1986. If just 10 percent fewer entries were liquidated with no change, the additional change liquidations would cost Customs $14 million to process. This is equal to the entire amount of the budgetary savings claims for the centralization plan.

Second, one of the most important functions of Import Specialists is to make on-the-spot determinations of admissability. Under normal procedures, most imported goods can be released upon inspection by a Customs Inspector. However, there is a wide range of products for which immediate delivery cannot be allowed becasue of possible danger to the public health and safety, or economic loss, if the goods enter the stream of commerce. Such goods are quota-class merchandise, manufacturers that might infringe upon U.S. patents or copyrights, medicines and chemicals that require proper marking, foodstuffs that require Agriculture or FDA certifications to protect consumers, importations that might be in violation of endangered species laws, and shipments that require a country-of-origin determination before entry can be permitted. The presence of Import Specialists at the port, where they can physically inspect shipments and take samples for laboratory testing if required, is essential for proper admissability determinations. This function cannot be delegated to Inspectors because technical knowledge of commodities, and of applicable Customs rulings and legal precedents, is required.

Third, Import Specialists' personal knowledge of the importer and broker community, together with their ability to verify invoices by visiting premises to inspect purchase orders, vouchers, and records of payment, are important for the detection of commercial fraud and effective enforcement of our trade laws. Most commercial fraud cases start with a referral from an Import Specialist. This may trigger a follow-up regulatory audit or investigation by other components of Customs. These activities are uniquely dependent on the crucial role the Import Specialist plays in fraud detection through document verification and ability to note when something "isn't right" about an importation. If Import Specialists are moved hundreds of miles away from the importing community at a port, trade law enforcement is bound to suffer and instances of undetected commercial fraud will mulitiply to the detriment of American workers and American industry.

Fourth, relocation of Import Specialists would break up the Import Specialist-Inspector team that is vital to the smooth operation of our ports of entry. The range of commodities that an Inspector must examine is too great to permit him the expertise needed for a proper inspection and determination of admissability. Consequently, the Inspector depends upon the Import Specialist to provide him with expert information, and the Import Specialist may often join in the inspection. Such teamwork is the bedrock of the entire system. It has, for example, prevented botulism-contaminated footstuffs from entering the stream of commcerce. By removing the Import Specialist from close contact with Inspectors, there is a greater likelhood of a shipment being released before its admissability is discovered. Import Specialists can best perform their duties on the line—close to the trade community and the Inspectors—and not at some location far removed from the ports of entry.

Fifth, Customs experimented with a similar system of centralized entry processing several years ago. Under this system, Import Specialists at different ports were assigned commodities for which they would have responsibility for classification and appraisement. Merchandise imported at one port might have its entry processed at another port. This experiment proved a complete failure. Not only did it take longer to process the entry, but it became virtually impossible to contact the Import Specialist who was actually responsible for reviewing it. As one Customs Broker recalled the experience:

"This method proved to be very costly and cumbersome to the U.S. Customs Service; therefore, this plan or program was discontinued. Almost immediately, there was a remarkable improvement in the appraisement of merchandise . . ." We believe Customs is now heading in the direction of repeating this unfortunate failure.

Customs asserts that its plan will achieve budgetary savings through reduced overhead, and facilitate automation by permitting larger numbers of entries to be processed at one central location. But automation will be of little benefit to Customs if much of the broker data submitted is incorrect. It is the presence of the Import Specialist in the trade community that permits a relatively high percentage of correct entries. The increase in the number of change liquidations resulting from centralization would alone wipe out the purported budgetary savings of $10 million. Moreover, Customs has failed to adequately consider the substantial economic impact on the communities that would lose Import Specialists, and the impact on industry of a reduced capability to detect commercial fraud.

We therefore call upon the Subcommittee to insist that Customs cease at once all current and planned relocations of Import Specialists, to lift the hiring freeze on Import Specialists in districts where such a freeze exists, and to promptly fill vacant Import Specialist positions at ports where such positions are authorized. In its authorization bill, the Subcommittee should require Customs not to implement any plan for the centralization of entry processing locations.

Automated broker interface

The automated broker interface (ABI) allows Customs house brokers, representing importers, to electronically transmit data to Customs. The system is in use, or planned for use, at New Orleans, Buffalo, Houston, Philadelphia, and Baltimore, with plans for expansion nationwide. Import Specialists have always strongly supported sensible automation efforts in the past, but in view of Servicewide by-pass requirements and continued high rates of broker errors on entry documents, most of which favor the importer, they fear that this new system will not provide adequate scope or judgment in processing entry documents. The result would be inadequate control over quota and restricted merchandise, loss of revenue, and reduced accuracy of trade statistics.

To illustrate, if a broker doesn't enter the right tariff classification, and the merchandise is of a type that requires sampling to determine admissability, samples won't be taken and the product will enter. On by-pass, the Import Specialist might not even see the entry. In this way, the system loses control.

Candy can be classified into 20 different categories under the tariff schedules, ranging from 0–17.5 percent duty. If the broker's clerk makes an error, and a Customs aide reviews the entry under by-pass, the scope for error is obvious. In the past, scissors have been invoiced as hand tools. Sugar has been invoiced as cookies; the entry for cookies is by-passed, but sugar is under quota.

Customs management objects to pre-entry review by Import Specialists of brokers' documentation. But this practice gives the Import Specialist the ability to correct errors in classification and value, and ensure accurate trade statistics are reported to the Census Bureau.

There have been many studies and tests by Customs which have documented various broker error rates, normally averaging about 30 percent. Nevertheless, Customs does not seem to have developed ABI with quality control in mind. The problem is compounded by the by-pass system. The Dingell committee drew attention to this problem by recounting a test made by Customs last year.

"Last spring, an experiment with 100 percent by-pass was carried out in the Chicago district. For 30 days, all entries of non-restricted merchandise were accepted as submitted. The Import Specialist then had 30 days to review these entries. Under the pressure of a doubled workload, the error rate uncovered was 21 percent. Even more important, Customs brokers and large importers had been officially notified of the test, thus skewing the results toward fewer errors. Moreover, 35 percent of all entries were on by-pass, and these were excluded from the test. The government collected $1,500,000 in duties that would have been lost under 100 percent by-pass."

The solution to these difficulties lies in 1) ensuring an adequate number of Import Specialists, 2) upgrading their role and maintaining their expertise, 3) distributing them more widely among the business community rather than centralizing them in fewer locations, 4) reducing the by-pass rate to an acceptable level, 5) ensuring that Import Specialists review all entries to determine whether by-pass should be made, 6) allocation of sufficient Import Specialist staff-years for pre-entry review and adequate quality assurance, and 7) consulting with Import Specialists before planning further development of the Automated Commercial System (which includes ABI) so their collective expertise can be brought to bear in shaping this new system.

Adequacy of number of import specialists

NTEU has completed three studies of the adequacy of the number of Import Specialists to process the growing entry workload and to deter commercial fraud. The first analysis is presented in Table 5. It shows that while the number of merchandise entries will more than double from three million to seven million between 1975 and 1986, the number of Import Specialists will decrease from 1,262 to 1,023 at present funding levels. Assuming an average annual rate of productity growth of 4.3 percent per year, the number of entries each Import Specialist would be capable of processing in 1986 would be 4,000 entries. Dividing this into the entry workload yields 1,762 Import Specialists required as a minimum adequate staff, which is 740 positions above the present level.

At the request of the House Energy and Commerce Committee, NTEU last year developed estimates of the number of Import Specialists, Customs Inspectors, and Special Agents required for adequate enforcement and deterrence of commercial fraud at three different enforcement levels. For 20 percent by-pass, 1,400 Import Specialists would be required, or 358 above the current level. For details see our FY 1985 testimony.

A further study presented in Tables 7-12 appended to our testimony shows that 260 additional Import Specialists would permit processing of 975,000 additional entries, reducing the by-pass rate from 60 to 45 percent and yielding $1 billion in additional revenue. This assumes that marginal revenue is $1,200 per entry compared to an historic average of $2,000 per entry, and that the Import Specialists are part of a total package of 1,200 additional cargo processing personnel.

NTEU believes that Congress should establish as a goal an additional 500 Import Specialists, to be attained over a three-year period. Last year, 150 additional Import Specialist were authorized, but funds were not appropriated. We again strongly urge the Subcommittee, in the face of the massive trade law enforcement problems facing the nation, to allow an additional 150 Import Specialists above the current level for Fiscal Year 1986.

TACTICAL INTERDICTION

The dedicated men and women of the Customs Patrol are responsible for the interdiction of narcotics and contraband entering the United States by air and sea or across our land borders. Patrol functions include air and marine interceptions, covert operations, participation with contraband enforcement teams in cargo enforcement operations, participation in Exodus and commercial fraud task forces, and use of mobile strike teams to respond to smuggling activities.

Special action units of the Customs Patrol are designed to ferret out activities which evade normal Customs processing. These special action units possess unique knowledge of cargo movement and documentation, vessel search and surveilliance procedures, smuggling and other criminal techniques, and ability to operate from aircraft, ship, and surface vehicles. They work hand in glove with other elements of Customs, spanning the gap between inspections and investigations.

As we have previously stressed, Customs Patrol Officers at land ports of entry are specifically trained to support the Customs mission. The Administration's proposal to transfer 165 of these positions to INS would gravely weaken narcotics, Exodus, and commercial fraud enforcement efforts. These specialized resources should be left within Customs, and we strongly urge the Subcommittee to bar their transfer.

In testifying before the Select Committee on Narcotics Abuse and Control on the serious threat of narcotics smuggling by ship, the Commissioner of Customs stated, "The threat we face in the marine area is again tremendous, it's one particular area where we are going to try and beef-up our resources."

This year's budget provides some modest resources for the Marine Patrol, to include an experimental sea module. The task is huge and Customs' present fleet is antiquated, but the start is welcome.

This Customs Air Patrol must continue to be strongly supported, and we commend the Subcommittee for its efforts in developing a second Customs air module as well as procurement of aircraft, radar, and other assets from the Department of Defense.

We have earlier described the vast dimensions of the commercial fraud threat to this country. Countering this threat will require strengthened enforcement of Customs patrol at air, land, and sea ports of entry. We need stronger patrol of our docks and harbors, and better surveillance of bonded warehouses and foreign trade zones. The Dingell Subcommittee has stated:

"The serious problem existed with bonded warehouses should be no surprise. Lax enforcement in previous years had led to several scandals involving goods disappearing from bonded warehouses."

"Customs officials experience even more problems with foreign trade zone warehouses. These are intended to house merchandise for re-export. It is Customs' policy not to inspect the goods as they enter or leave the zones. In one part of the country, counterfeit jeans were being sold in foreign trade zones. Shirts reportedly scheduled for trans-shipment to South America were on their way to New Jersey when discovered. Perfume was magically transformed into baby shampoo and sand in another warehouse. Stories abound of containers full of goods entering foreign trade zones and exiting empty or filled with other goods. Falsification of paperwork appears to be a simple matter."

Customs will not get a handle on this problem without more special enforcement operations, strengthened contraband enforcement teams, and investigations in which Customs Patrol Officers participate. We believe there should be a long-range plan for strengthening this arm of the Service, and we ask the Subcommittee to approve 50 additional positions in Fiscal Year 1986. The funds for these positions are contained in the alternative budget we have presented.

SUMMARY OF NTEU'S RECOMMENDATIONS

NTEU recommends:

Approval of $716,192,000 and 14,068 average positions for Customs for FY 1986. This is an increase of $77 million and 1,527 average positions above the Administration's budget request. The increase includes $46.6 million and 877 average positions to restore cuts made by the Administration and maintain current operating levels. It also includes an additional $30.4 million and 650 average positions for 400 Inspectors, 150 Import Specialists, 50 Customs Patrol Officers, and 50 Special Agents to strengthen Customs enforcement.

Congress should set as a goal achievement of the following increases in Customs over the next three years:

a. 1,500 Inspectors as follows:

(1) 350 positions for airports (based on the Air Transport Association's recommendation of 236, plus 114 additional positions for passenger and cargo growth, staffing of new gateways, and assumption of INS primary inspections);

(2) 300 positions for land border ports (based upon Customs' study that 286 positions are required for assumption of INS primary inspections);

(3) 450 positions for commercial fraud enforcement based upon NTEU's study of the number required to raise the inspection rate for containerized shipments to 3.5 percent);

(4) 100 positions for export control (based upon the minimum required number of Inspectors for the Exodus program);

(5) 300 positions for inspection of warehouses and foreign trade zones (based upon number of positions in former Customs warehouse program).

b. 500 Import Specialists (based upon NTEU's studies).

c. 200 Customs Patrol Officers (for narcotics and commercial fraud enforcement).

d. 100 Special Agents (primarily for commercial fraud enforcement).

As the nation's principal border management agency, Customs should be assigned primary inspection responsibility at all ports of entry. The plan to consolidate primary inspections within Customs at air and sea ports should be approved and implemented, but the plan to transfer primary inspection responsibility and Customs Patrol positions at land ports to INS should be rejected. Customs should be assigned responsibility for primary inspection at land ports of entry, thereby freeing resources for the Border Patrol, which could concentrate on its mission of apprehending illegal aliens between ports of entry.

The Subcommittee should initiate a full inquiry into the ACCEPT program, and not authorize Customs to proceed with this program except in accordance with an approved plan, including phasing in of additional inspectional resources, to deter and minimize narcotics smuggling and commercial fraud.

The Customs warehouse program should be re-instituted, and there should be a greater Customs presence in foreign trade zones, as a deterrent to commercial fraud.

The Subcommittee should direct that Customs immediately establish critieria, and allocate sufficient Import Specialists, to ensure no more than 45 percent by-pass of merchandise entries in FY 1986. Import Specialists should review most entries to determine whether by-pass is appropriate. If the number of Import Specialists is insufficient to achieve this goal, Customs should so notify the Subcommittee so that it may make an appropriate recommendation in Congressional consideration of Treasury's supplemental appropriation request for FY 1986. Customs should be required to evaluate the results of 45 percent by-pass, including impact on revenue and commercial fraud prevention, in order to permit Congress to determine whether this rate should be adjusted.

The Subcommittee should direct Customs to upgrade and strengthen the Import Specialist's role as the backbone of commercial operations, including measures to enhance professional development and improve expertise in the various commodity lines.

The Subcommittee should permanently bar the centralization of Customs' appraisement locations, and require Customs to give six-month notice of any planned port or office closures.

The Subcommittee should mandate allocation of a sufficient number of Import Specialists for pre-entry review of brokers' documentation, in order to minimize broker errors; provide for review and correction of data entered under the automated broker interface program; and consult with Import Specialists to design a quality assurance program for the Automated Commercial System (which includes ABI) to maintain the integrity of classification and valuation requirements, tariff and quota controls, data required for anti-dumping and countervailing duty determinations, and accuracy of foreign trade statistics.

Customs Patrol should be strengthened by a minimum of 50 positions at all ports of entry, proposed augmentation for the air support program should be provided, and the amount requested in the budget for integrated data telecommunications network and upgrading of TECS should be approved.

In view of the grave drug threat of the past decade, and the rise of international terrorism as well as greater law enforcement cooperation in the apprehension of criminals, the Subcommittee should recommend to the Congress and to the Committee on Post Office and Civil Service that Customs Inspectors be eligible for special early retirement as law enforcement officers.

The Subcommittee should recommend to the Congress that the uniform allowance of uniformed employees of the Customs Service be established at any amount up to $425 annually.

The Subcommittee should bar the expenditure of funds for implementation by Customs of radio preliminary entry of vessels, in view of the drug and commercial fraud threats and potential for abuse.

Mr. Chairman, this concludes our testimony. My staff and I will be happy to answer any questions.

TABLE 1.—COMMERCIAL FRAUD THREAT TO THE UNITED STATES, FISCAL YEAR 1986

	Estimated annual value	Estimated revenue loss
Goods imported but unreported	$25 billion	
Counterfeit goods	$12 billion	
Goods imported in violation of tariff and trade agreements		
1. Steel	$600 million	
2. Textiles	$500 million	
3. Other	$500 million	
Grand total	$38.6 billion	$3.0 billion [1]

[1] The average rate of duty on dutiable imports is 8%. Applying this rate to $38.6 billion yields a conservative estimate of the revenue loss, as fines, penalties and forfeitures, in addition to duties, would be involved in actual cases.

TABLE 2.—ILLICIT DRUG THREAT TO THE UNITED STATES

	1978	1979	1980	1981	1982	1983	1984	Percent change 1978–82
Supply (metric tons):								
Heroin	3.7–4.5	3.4–4.0	3.6–4.3	3.89	4.08			0
Cocaine	19–25	25–31	40–48	34–45	45–54			+125
Marijuana	8,800–11,900	10,000–13,600	10,200–15,000	9,600–13,900	12,000–15,000			+30
Total retail value (billions of 1980 dollars)		$56–74	$70–90	$75	$85			
Removal (quantity seized in metric tons).								
Heroin	.35	.19	.23	.15	[1] .27			
Cocaine	1.4	3.4	3.5	2.0	[2] 5.64			
Marijuana	1,191	671	731	937	[3] 1,336			

[1] 7 percent of supply.
[2] 11 percent of supply.
[3] 10 percent of supply.

Source: Narcotics intelligence estimates.

TABLE 3.—U.S. CUSTOMS SERVICE FISCAL YEAR 1986 BUDGET REQUEST AND NTEU RECOMMENDATION

	Fiscal year 1986 budget request		Add-on required for restoration to fiscal year 1985 level		Recommended baseline for fiscal year 1986 appropriations		NTEU recommendation		NTEU recommended authorization	
	Amount (thousands)	Average positions	Amount (thousands)	Average positions	Amount (thousands)	Average positions	Amount (thousands)	Average positions	Amount (thousands)	Average positions
Inspection and control	298,305	6,225	+19,205	+351	317,510	6,576	+17,480	+400	334,900	6,976
Tariff and trade	147,370	3,085	+20,070	+437	167,440	3,522	+7,965	+150	175,405	3,672
Tactical interdiction	101,547	1,806	+4,226	+60	105,773	1,966	+2,110	+50	107,883	1,916
Investigations	91,880	1,415	+3,139	+39	95,019	1,454	+2,895	+50	97,914	1,504
Subtotal	639,102	12,531	+46,640	+887	685,742	13,418	+30,450	+650	716,192	14,068
Operation and maintenance, air interdiction program	60,425		0	0	60,425	0	0	0	60,425	
Total	699,527	12,531	+46,640	+887	746,167	13,418	+30,450	+650	776,617	14,068

TABLE 4.—U.S. CUSTOMS SERVICE

[Average positions by category, fiscal year 1972-86]

Fiscal year	Inspectors	Import specialists	Patrol officers	Agents	Total customs
1972	3,184	1,312	485	853	11,116
1973	3,472	1,304	736	956	11,772
1974	3,693	1,208	971	532	11,878
1975	3,803	1,262	1,152	582	13,076
1976	3,873	1,256	1,191	614	13,380
1977	3,943	1,204	1,365	603	13,228
1978	4,077	1,207	1,251	600	13,854
1979	4,174	1,236	1,211	577	14,061
1980	4,165	1,219	1,231	604	13,820
1981	4,379	1,165	1,332	597	13,316
1982	3,987	1,081			12,924
1983	4,122	1,027	1,134	701	12,898
1984	4,289	1,042	1,246	932	13,319
1985	4,372	1,023	1,246	1,009	13,418
1986 (Admin)	4,166	766	1,246	1,009	12,531
1986 (NTEU)	4,772	1,173	1,296	1,059	14,068

Source: U.S. Customs Service Budgets.

TABLE 5.—U.S. CUSTOMS SERVICE—FORMAL ENTRIES OF MERCHANDISE AND NUMBER OF IMPORT SPECIALISTS, FISCAL YEARS 1972-86

Fiscal year	Number of import specialists	Number of formal entries of merchandise	Workload entries per import specialist	Average annual workload growth (percent)	Productivity per import specialist	Required number of import specialists
1972	1,312	2,866,000	2,441	1(1)		1,312
1973	1,304	3,240,000		(1)		
1974	1,208	3,206,000	2,650	(1)	2,650	1,208
1975	1,262.	3,015,000				
1976	1,256	3,264,000		(2)		
1977	1,204	3,690,000		(2)		
1978	1,207	4,017,000		(2)		
1979	1,236	4,384,000	3,547	(2)		
1980	1,219	4,374,000	3,588	(2)		
1981	1,165	4,588,000	3,939	(2)		
1982	1,081	4,753,000	4,397	(2)		
1983	1,927	5,314,000	[3] 5,174	(2)	3,676	1,446
1984	1,042	6,421,000	[4] 6,162	(2)	3,790	1,694
1985	1,023	6,742,000	[5] 6,590	(2)	3,903	1,727
1986 (Estimated)	766	7,079,000	[6] 9,241	(2)	4,017	1,762

[1] 1956-74—4.3 percent.

[2] 1976-86—11.7 percent.

[3] Subcommittee on Trade, Committee on Ways and Means, "Background Materials on H.R. 9220," July 14, 1976, p. 39, gives Import Specialists workload in fiscal year 1974 and average annual growth of workload, 1956-74. Workload is measured in number of entries per Import Specialist.

[4] Bypass instituted by Customs, meaning 50-60 percent of entries are not reviewed by Import Specialists but are processed by clerical personnel.

[5] Number of entries each Import Specialist is, on average, capable of processing, assuming 4.3 percent per annum productivity growth since 1974.

[6] Assuming 4.3 percent productivity growth per annum since 1974, the number of entries each Import Specialist would be capable of handling in 1986 would be 2,650 + (2,650 × .043 × 12) = 4,017. Dividing this into 7,079,000 entries yields 1,762 as the required number of Import Specialists.

TABLE 6.—ADMINISTRATION'S CUSTOMS/INS CONSOLIDATION PLAN

	Air	Land	Sea	Preclearance	Total
Work-years now:					
INS primary	368	468	74	63	973
Customs primary	463	638	47	124	1,272

TABLE 6.—ADMINISTRATION'S CUSTOMS/INS CONSOLIDATION PLAN—Continued

	Air	Land	Sea	Preclearance	Total
Total	831	1,106	121	187	2,245
INS secondary	154	330	30	30	544
Customs secondary	186	426	12	67	691
Total	340	756	42	97	1,235
Grand total	1,171	1,862	163	284	3,480
Work-years after:					
INS primary		1,106		63	1,169
Customs primary	331		121	124	1,076
INS secondary	154	330	30	30	544
Customs secondary	186	426	12	67	691
Total	1,171	1,862	163	284	3,480

FTE'S ADDED OR (LOST)

	Air	Land	Sea	Preclearance	Change	Current FTE'S	Grand total
INS primary	(368)	+638	(74)		+196	973	1,169
Customs primary	+368	(638)	+74		(196)	1,272	1,076
INS secondary						544	544
Customs secondary						691	691
Total					0	3,480	3,480

Note: INS increases from 1,517 FTE's to 1,713; Customs decreases from 1,963 to 1,767.

TABLE 7.—SUMMARY OF CUSTOMS RESOURCE REQUIREMENTS, COSTS, AND ADDITIONAL REVENUE FROM INTENSIFIED COMMERCIAL FRAUD COMPLIANCE PROGRAM IN FISCAL YEAR 1986

Enforcement level	Additional merchandise entries to be processed	Additional revenue yield (millions)	Additional commercial cargo processing positions required	Consisting of[1]—			Total cost[2] (millions)	Net revenue yield (millions)
				Customs inspectors	Import specialists	Special agents		
I	650,000	$780	800	600	175	25	$32.2	$748
II	975,000	1,170	1,200	900	260	40	48.4	1,121
III	1,300,000	1,560	1,600	1,200	350	50	64.5	1,495

[1] Commercial cargo processing resources in the total force are approximately in the ratio of 3,000 inspectors to 1,000 import specialists to 127 special agents assigned to fraud. Using the ratios of 3:1:.13 yields the numbers in these columns.

[2] Computed at $40,000 per inspector and import specialist staff year, and $50,000 per special agent staff year, including recruitment, equipment, and training.

TABLE 8.—COMPUTATION OF ADDITIONAL RESOURCE REQUIREMENTS AND REVENUE YIELD FOR INTENSIFIED COMMERCIAL FRAUD COMPLIANCE PROGRAM, FISCAL YEAR 1986

Formal entries of merchandise (thousands)	By pass rate[1] (percent)	Entries to be reviewed (thousands)	Number of additional entries reviewed (thousands)	Marginal revenue collection per entry[2]	Additional revenue yield from review of additional entries (millions)	Number of entries per average commercial cargo processing positions[3]	Additional average positions required to process additional entries
6,500	60	2,600	650	$1,200	$780	800	800
6,500	50	3,250					

TABLE 8.—COMPUTATION OF ADDITIONAL RESOURCE REQUIREMENTS AND REVENUE YIELD FOR INTENSIFIED COMMERCIAL FRAUD COMPLIANCE PROGRAM, FISCAL YEAR 1986—Continued

Formal entries of merchandise (thousands)	By pass rate[1] (percent)	Entries to be reviewed (thousands)	Number of additional entries reviewed (thousands)	Marginal revenue collection per entry[2]	Additional revenue yield from review of additional entries (millions)	Number of entries per average commercial cargo processing positions[3]	Additional average positions required to process additional entries
6,500	45	3,575	975	1,200	1,170	800	1,200
6,500	40	3,900	1,300	1,200	1,560	800	1,600
6,500	35	4,225	1,625	1,200	1,950	800	2,000
6,500	30	4,550	1,950	1,200	2,340	800	2,400

[1] Bypass is the rate established for entries not to be reviewed by an import specialist Commercial fraud enforcement levels can be expressed in terms of a decreasing by-pass rate

[2] See table 7 $1,00 is selected as a conservative estimate

[3] See table 4 for derivation Commercial cargo processing positions include inspectors, import specialists, and special agents assigned to fraud

TABLE 9.—U.S. CUSTOMS SERVICE, PROCESSING COMMERCIAL CARGO—FORMAL ENTRIES PER AVERAGE POSITION

[Fiscal years 1979-86]

Fiscal year	Number of formal entries of merchandise	Cargo processing staff positions		Total	Formal entries per position
		Cargo inspection	Tafiff and trade		
1979	4,384,000	4,174	4,170	8,344	525.4
1980	4,374,000	4,165	4,082	8,247	530.3
1981	4,588,000	4,379	3,837	8,216	558.4
1982	4,753,000	3,987	3,748	7,735	614.4
1983	5,314,000	4,122	3,595	7,717	688.6
1984	5,700,000	4,289	3,572	7,861	725.0
1985	6,100,000	4,365	3,572	7,937	768.5
1986	6,500,000				[1] 791.6

[1] Projected at 3 percent productivity growth over 1985. Result is that in FY 1986 customs will have the capability of handling approximately 800 formal entries per average position in cargo processing

TABLE 10.—AVERAGE U.S. CUSTOMS REVENUE COLLECTION PER FORMAL MERCHANDISE ENTRY

[Fiscal year 1979-84]

Fiscal year	Total revenue collection (thousands)	Total merchandise entries (thousands)	Average revenue collection per entry
1979	$8,460,479	4,384	$1,930
1980	8,230,100	4,374	1,882
1981	9,197,222	4,588	2,005
1982	9,981,342	4,753	2,100
1983	9,784,959	5,314	1,841
1984	11,678,238	5,769	2,024

TABLE 11.—FORMAL ENTRIES BY TYPE, COMPARED TO BY-PASS RATES

[Fiscal year 1983–86]

Fiscal year	Total formal entries (thousands)	Dutiable entries (thousands)	Percent of total [1]	Trade program entries (thousands)	Percent of total [1]	By-pass rate [2] (percent)	Entries reviewed (not by-passed) (thousands)
1983	5,314	3,720	70	2,179	41	50	2,657
1984	5,700	3,990	70	2,337	41	50	2,850
1985	6,100	4,270	70	2,501	41	60	2,440
1986	6,500	4,550	70	2,665	41	60	2,600

[1] Actual fiscal year 1983 data is extended to fiscal year 84–86. Percentage of totals add up to more than 100 percent because of overlap between dutiable and trade program entries.

[2] This is the percentage of entries not designated for import specialist review. By-pass procedures were established by customs because entry growth exceeded staff capability. At 60 percent by-pass, customs is barely applying enough resources to review trade program entries, and a substantial number of dutiable entries will not be reviewed.

TABLE 12.—ESTIMATES OF AVERAGE AND MARGINAL REVENUE COLLECTION FOR U.S. CUSTOMS SERVICE

[Fiscal year 1986]

By-pass rate	Average revenue per entry factor [1]	Marginal revenue per entry factor [2]	Average revenue collection per entry	Marginal revenue collection per entry
60	1.0	0.9	$2,000	1,800
50		.8		1,600
40		.7		1,400
30		.6		1,200
20				
10				

[1] The task is to estimate the marginal rate of return as the by-pass rate is reduced below 60 percent, that is, as additional entries are reviewed by import specialists. It is conservatively assumed that the marginal revenue is less than the average revenue. However, in the range between 60 percent and 30 percent by-pass, it is assumed that marginal revenue will remain high relative to average revenue, because dutiable imports are being by-passed.

[2] A factor of 0.9 means that marginal revenue is .9 times average revenue, and so on.

Chairman GIBBONS. Well, I want to commend you for not only your delivery of your statement but also the professional way you put it together. It is a very fine statement and the part you did read I will take with me and read and learn more about it.

Mr. TOBIAS. Thank you, sir.

Chairman GIBBONS. What has been the objection to the consolidation of the two services that man our ports? What has been the problem?

Mr. TOBIAS. Well, as we understand it, Mr. Chairman, this issue has been ongoing for several years.

Chairman GIBBONS. Yes, sir.

Mr. TOBIAS. And last year the then Deputy Attorney General met with the Deputy Secretary of the Treasury and instead of making a managerial decision which would make sense as to which agency would be most efficient to handle this problem, they cut the baby in half, and nothing was done; nothing was accomplished.

We believe that all of the studies that have been put together over the years show that there should be one border agency and that agency should be the U.S. Customs Service, that it has the background; it has the expertise and it has the training to get the job done.

It has proven that in the past and the studies show that the consolidation with U.S. Customs Service would save a great deal of money.

I guess the short answer to your question is, Mr. Chairman, that the administration last year could not make a decision and so we are urging that a decision be made this year.

Chairman GIBBONS. I noticed in the newspapers last week that, I think it is, the Columbian Air Line, Avianca, had a 747 seized in Miami and that airplane had had some 34 infractions of the drug laws charged against it in a reasonably short period of time.

I was in Miami a couple of years ago and they told me that another airline had just regularly, not an American airline, I want to say, just regularly brought in shipments of flowers and cocaine and everything else; and the task force people there and the drug people said, we are only qetting about 10 percent of what gets in; and if we squeeze it any harder we will just shoot it further up the coast. They will start using other airports and other places.

It was really a very discouraging picture that was presented, and then you tell me only 1 percent of the containerized cargos are inspected?

Mr. TOBIAS. That is right, Mr. Chairman.

Chairman GIBBONS. Why do people waste their time sending them in airplanes? It looks like you have got a guaranteed 99-percent arrival on time if you use containerized cargos. Do we find any of that in the 1 percent of containerized cargo that is inspected?

Mr. TOBIAS. Yes, we do, and it is very discouraging to me as well because, as I travel around the country and see the kinds of ports that are being built by the U.S. Customs Service, they are being built in such a way that the trucks, for example, coming into the country would not have room to unload their containerized shipments even if a Customs inspector directed that it be unloaded as they came into the country. There is no room to do it. So the U.S. Customs Service, I guess, by the back door, is making it more and more difficult to stop this trend toward the honor system that we see around the country and depending on brokers and importers to be honest and not to bring anything they shouldn't into the country.

But it is incredible to me to just stand there and watch the trucks go by with their shipments in their containers and no one looking at them and no one offering the least bit of deterrence to those goods and commodities coming into the United States.

Chairman GIBBONS. Well, where an airline can afford to forefeit a 747 or put up a bond that will probably lead to forfeiture of a 747, I can only say it must be a very lucrative business for somebody and I cannot believe that the honor system would work where there is that much incentive to cheat.

The honor system is a wonderful system and I wish we could use it, but I have also found that the honor system works where there is some degree of responsibility or accountability. It seems to work better under that kind of system than any other.

We get all kinds of lectures on what we ought to do about narcotics and how terrible it is, and we have people in high offices going around putting on training and rehabilitation programs but really very little being done at the actual point of interception. If you were only inspecting 1 percent of every container shipment that comes in, I assume that the people on the street know that.

Jeepers creepers, I do not know what is happening there. I would say the chance of us picking up 10 percent of what is coming into this country is vastly overstated.

Mr. TOBIAS. It is true, as Mr. Angelus said earlier in his testimony to this committee, that we have more interdiction and more seizures, but it seems to be the measure of our success is the fact——

Chairman GIBBONS. The volume is increasing. That is all.

Mr. TOBIAS. And the cost is going down on the street, and the only reason the cost is going down is because it is more generally available. So that means that more is getting across our borders.

Chairman GIBBONS. Like Mr. Dingel and like the other people here in the Congress, I am very concerned about the counterfeiting and what goes on; and it seems to me that we really are encouraging it to go on by dropping our guard at the border. A little bit of effective law enforcement at the border would discourage people from trying to bring counterfeit goods in here, and it makes a mockery of everything we do if nobody is enforcing at the border. Am I right?

Mr. TOBIAS. That is correct, and it is not only the enforcement at the border through the inspectors, but it is the role that the import specialists play as well. If they are not examining those entries before the goods are released into the stream of commerce, it does not get stopped. It is true that computers can be used to increase the efficiency of operations as the basis for the storage of information and all of the things that contribute——

Chairman GIBBONS. They shuffle papers, yes.

Mr. TOBIAS. Computers do not reach out and look into a truck and they do not open a container and they do not make a valuation of what is even in that container; and that is what we see the Customs Service trying to do. That is not a role for computers. It never has been, never was intended to be.

So you cannot have efficiency in that way.

Chairman GIBBONS. You have got some testimony in your statement about fraud and those things?

Mr. TOBIAS. Yes, we do, sir.

Chairman GIBBONS. Thank you very much.

Mr. Frenzel.

Mr. FRENZEL. Yes, Mr. Chairman.

I have an idea we are confusing some things here.

Chairman GIBBONS. God bless you.

Mr. FRENZEL. I doubt if there are a lot of import specialists interdicting drug shipments, and import specialists do not look into containers. We have a container inspection program and I suspect that we are inspecting about the same percent of containers as we have done since I have been on this committee.

I recall visiting in, I think, 1977, a number of ports in which they were doing less than 1 percent; and we directed the Customs Service to increase their inspections. Perhaps they have not.

But I would like to know—you do not have any import specialists that do routine inspection of containers, do you?

Mr. TOBIAS. No; we do not, but, Mr. Frenzel, in fiscal year 1981, the containerized inspection was 215,000. In 1982, it dropped to 186,000. In 1983, it dropped to 112,000; in 1984 to 93,000, and it is projected in fiscal year 1985 to be 95,000. So it is the number of inspections, absolute numbers, which has dropped while the amount has increased.

Mr. FRENZEL. I understand that, but part of the reason is because we directed customs to have more inspections made and more inspectors, and you normally have gone elsewhere and said, let us have more import specialist and you have gotten a fair number of them and we have not done much for inspectors.

As a result, we are very good at looking at paper; we are much less good about looking into shipments coming into this country.

Mr. TOBIAS. Well, Mr. Frenzel, we have that problem of even though Congress has been generous in this committee and others have been saying that positions should not be cut, the U.S. Customs Service has taken the position that it is not going to fill positions. For example, right now, a nationwide hiring freeze has been put on in anticipation of the fiscal year 1986 budget. Instead of filling the positions that have been authorized and appropriated for, Commissioner Von Rob is not filling positions. So we are in a very, very difficult posture with the staffing in the U.S. Customs Service.

Mr. FRENZEL. I agree with you that you are. What I am saying is that there is quite a different emphasis between import specialists and inspectors.

Mr. TOBIAS. That is a fact.

Mr. FRENZEL. When you talk about what this committee is interested in, it is normally inspectors; but when you come to us, you frequently want more import specialists. This committee has not felt that that has been the widest use of scarce personnel resources, and I do not think we have ever totally agreed with you on how we reorient these people.

We do agree, I think, that where there are reductions they ought to occur in administrative personnel, particularly if we have redundancies in regional managements. But I guess what I want to clear up is the idea that you have this large cadre of import specialists who are somehow manning the border for us. The import specialists look at the entry and that is the best that he or she can do because that is what their business is, and they are not the first line of defense against drugs.

When you talk about the honor system, that makes me a little nervous because I wish you had not said cat-and-mouse game.

I personally do not believe the brokers and forwarders of this country are playing a cat-and-mouse game. They are doing what you and I do on our income taxes. They want to pay the lowest rate they can possibly pay legally; and I think that the lion's share of them, almost all of them are perfectly honest.

I think we need a system that assures accountability; but on the other hand, I do not think we need to check every piece and every parcel. But we have got to do more than we are doing now, I agree with you 100 percent. But I do not agree that we are going to be redeemed by the import specialists. I think we are going to be redeemed by inspectors.

And my understanding is, we are not getting a lot of container freight from Colombia and Mexico. The container freight comes from other places. A lot of drugs are not entering the country in containers, and we have a lot of ways to verify how they are coming in, and I think that your presentation at least led me to believe that we had a bit crisis which, upon reviewing, takes on another dimension.

Would you care to respond to that?

Mr. **Tobias**. I just would say, Mr. Frenzel, our proposal is sort of a balanced approach to the problem because we have both the problem of drug interdiction and the importation of goods which are counterfeit, and misapplied, and misallocated, and that is why we are proposing 650 positions over the fiscal 1985 level, 400 specialists, 150 inspectors, 50 customs patrol officers, and 50 special agents.

I would characterize that as a balanced approach to meet both of the problems.

Mr. **Frenzel**. I thank you for that comment. I am interested in the drug side of it.

We have 7, or 8, or 10 agencies of the Government coming to the Congress, not to this committee, thankfully, asking for more money, claiming they are the last thin line between us and absolute corruption, drug corruption, in the United States. We some time ago separated out the DEA out of the Customs Service. In fact, I believe that many of your former employees signed on with the new agency. You have indicated that you share some responsibilities with INS. Some of our law enforcement agencies are involved and so is the Department of Transportation through the Coast Guard. When we hear from them, every one of them is the only one who is doing anything. We cannot give everybody all the money to solve the drug problem. Who is doing it? Are you responsible, or is DEA, or INS, or all of you responsible?

Mr. **Tobias**. With the primary agencies, DEA, Coast Guard, and Customs, and those are the ones who deal with the interdiction of drugs across the borders of the United States; those are the three primary agencies, and the U.S. Customs Service has most of the responsibility at the border when you enter for what comes in across the border.

Now, the DEA has spent a lot of time along with the customs agents coordinating the breaking of the organized crime and the importation of drugs from other countries; and that has resulted in some very large, spectacular seizures over time.

All I am saying, and I think the statistics are accurate, is it just is not enough. When we can show that adding more people yields more revenue to the U.S. Government, it seems that that would be something that this administration would seize on to embrace as opposed to saying we can do more with less when the statistics show just the opposite to be true.

Mr. **Frenzel**. We do have a problem, as you understand. Every agency tells us they can do more with less, and we seem to have less to dispense each year. As you know, this committee will undoubtedly want to authorize more employees than the administration has recommended. We believe in what you are doing. We think your employees are good ones. They are hard working ones and we want to encourage them.

But these are not days of plenty as far as the Federal cow is concerned, so it is going to be a hard year.

We appreciate your testimony and I yield the balance of my time.

Chairman GIBBONS. Let us go back and let me ask you to justify, if you can, the request for increase in additional import specialists. Why do we need additional import specialists?

Mr. TOBIAS. Their job and responsibility is to deal with that $40 billion compliance gap that I mentioned before, and the statistics are there that the more entries that are examined, the more dollars that are collected, the more classifications that there are that are correct and they pay their way many times over. So it is not a question of asking for money to do something ephemeral. The statistics show if there are more entries examined, there are more dollars yielded. It just follows.

Chairman GIBBONS. What is the payoff ratio?

Mr. TOBIAS. I believe it is 18 to 1. I would like to check that. I would not want to be held to that. I believe it is 18 to 1.

Chairman GIBBONS. If you find that is the wrong figure, we will allow you to correct the record.

Mr. TOBIAS. Thank you.

Chairman GIBBONS. Thank you very much for your helpful testimony.

Mr. TOBIAS. Thank you very much, Mr. Chairman.

Chairman GIBBONS. Now we have a panel of witnesses from the National Customs Brokers & Forwarders Association, Mr. Sigmund Shapiro, who is president of Samuel Shapiro & Co. of Baltimore; Mr. Eugene Milosh, who is the president of the American Association of Exporters & Importers; and the joint industry group, Mr. Alan B. Spurney.

Before the panel starts, I may run into an embarrassing situation. I am also on the Joint Taxation Committee, and that committee has to meet today and I may have to run out on you. So please proceed as rapidly as possible and I will apologize to each one of you for having kept you here so long today, but we have had a lot of business to transact. Go right ahead.

Mr. Shapiro, you are first.

STATEMENT OF M. SIGMUND SHAPIRO, PRESIDENT, SAMUEL SHAPIRO & CO., BALTIMORE, MD, ACCOMPANIED BY HARVEY A. ISAACS, GENERAL COUNSEL, NATIONAL CUSTOMS BROKERS & FORWARDERS ASSOCIATION

Mr. SHAPIRO. My name is Sigmund Shapiro. I am here today in my capacity as a director of the National Customs Brokers & Forwarders Association. Our association represents, and its 29 affiliated associations represent probably 85 percent of the Nation's commercial importers. I am also the president of my own customs brokerage firm which has been operating since 1915 in Baltimore.

Members of our association have been part of the evolution of the U.S. Customs Service since our founding. We have seen the growth and the development of its functions and responsibilities. We have witnessed the swing of the pendulum from the active promotion of trade after World War II to the era of the import surcharge of 1971; its concern for the orderly flow of imports shift to the intensive involvement with narcotics interdiction. We have been through the decentralization of the 1960's and the centralization of the 1980's. At times the deja vu is overwhelming, as we see the same ideas recirculate again and again. We, as an industry whose clients include the majority of the importing and the exporting trading community, are extremely concerned the customs has lost sight of its mission. This time, the pendulum is out of control.

On the one hand, the narcotics problem in the United States has reached crisis proportions and, on the other, international trade is burgeoning. At the same time, customs presents to Congress proposed budget figures, in line with the administration's mandate, that compel a reduction in personnel. Each time, the Congress, properly concerned with the drug problem, gives the agency additional funds for this purpose which are immediately utilized for narcotics interdiction; this leaves little additional resources for customs' main function as the administrator of the U.S. tariff laws, a deputy for the policing of other international laws and regulations to protect the public and, most importantly, a revenue collection agency.

In order to meet its obligations in the commercial area, the Customs Service has sought to automate. This exercise started in 1967, is just now beginning to show a measure of success, after several false starts. Unfortunately, however, the seductive nature of automation is such that many functions that could be better performed manually are brought into the system time and again before the module being tested is operating satisfactorily—this has proven to be no more than attempts to cut the foot to fit the shoe. Personnel in the area affected is reduced, resulting in a breakdown of the automated system with little or no manual backup while volume increases, cargo languishes at airports and piers, backlogs of paperwork proliferate, and passengers grumble because of lack of service. And the cost of automation ticks on like a taximeter. A headquarters customs official recently declared that the cost of the software to feed the new IBM 3084 is $1 million every 3 months—and the total system is still not up and running—since 1967. In the meantime, due to shrinkage in personnel, customs field officials have issued directives stating that:

Import specialists will only be available for consultation with importers on an appointment basis and will only accept phone calls regarding complex cases.

Inspectors can only look at cargo at piers from 9 a.m. to 2 p.m. in order to be available to examine passengers arriving at airports.

Centralization of functions has also been offered as a partial solution to the problem. In many ways it is a sensible approach. But it is no substitute for having personnel at the port who can assist the public and are available to review and ensure the correctness of documentation at the time of filing.

The computer is a valuable tool. Customs must have it to bring itself, as it says, "into the 20th century." But it must also have trained personnel, import specialists, inspectors, and administrators in the field. Computers are marvelous aids, but they cannot think for themselves. They cannot tell if a sweater is ornamented and takes a higher duty or if a handbag violates someone's domestic trademark. And curiously, the absence of a CRT operator or a computer breakdown can close a port down, whereas a trained inspector or import specialist has mobility, can improvise and keep commerce moving.

At the inception of the entry process, the onus for presenting Customs documents in letter perfect form, notwithstanding disputes in valuation or duty rate, is the responsibility of the importer, with the fear of both civil and criminal sanctions for submitting incorrect information as the primary corrective technique. Without adequate Customs staff available to deal with the myriad of complex problems arising every day, this is a bureaucratic, heavy-handed and frightening approach.

In 1978, Congress passed the Customs Procedural Reform and Simplification Act [Public Law 95-410]. The legislative history and testimony before the Congress at that time indicated the direction Customs wished to take in the handling of international commerce. It was a rational, intelligent approach that touched all bases and minimized the opportunities for irregularities on the part of importer and government alike.

Based on this history, Congress passed, and the President signed, this legislation. Since then, however, because of the reduction in personnel, Customs first tried to implement that law by automation, and then finding it could not adequately do so, placed many of the Service's responsibilities on the backs of the international trading community. It has not worked. It has cost the Government in loss of morale in the ranks as well as the services of dedicated, intelligent employees who have resigned in disgust. It has cost the trading community in assuming administrative burdens properly those of the Federal Government and in unnecessary legal fees defending frivolous violations of the regulations. Moreover, it has generated procedures that avow:

That a computer can tell the Customs what to examine to assure the proper duty being assessed and compliance with a myriad of Federal law and regulations and that notwithstanding reduced examination of merchandise contraband is not entering the United States, are both patently ridiculous.

In a 1981 report to Congress, GGD 11-46 of April 23, 1981, the Comptroller General recognized the seriousness of the problem when he stated:

> Customs Service import specialists have insufficient time and means to adequately verify Tariff Schedule classifications assigned by importers or their brokers to billions of dollars worth of foreign products entering the United States annually. Proper classification is essential for determining the appropriate import duty, treating importers consistently, and compiling import data for formulating trade policies.

Unfortunately, that statement is as true today as when it was written.

Mr. Chairman, this situation cannot be allowed to continue. We urge this committee to reread the testimony and legislative history of Public Law 95-410 and reaffirm its logic and feasibility. We urge you to allocate to the U.S. Customs Service additional funds in the coming fiscal year—but to earmark these funds for enhancement of Customs traditional role by intelligent staffing to deal with the mainstream of international trade. Perhaps a total reexamination of Customs mission will be required—perhaps the emphasis on the overwhelming narcotics problem should be shifted elsewhere, such as to DEA, to allow Customs to deal with what promises to be an everwidening workload in international trade—and at the same time boost the sagging morale of the Service.

Thank you, Mr. Chairman.

Chairman GIBBONS. You have raised some very interesting points there and maybe we just tried to heap too much on Customs. With the vast growth of commerce maybe we are just going to have to invent some other person or other agency to do all these things. It would seem to me though it would be much simpler to have one agent that was qualified in a broad field that could step into a situation and make some good decisions. They all make mistakes—but thank you.

Our next witness is Mr. Milosh.

STATEMENT OF EUGENE J. MILOSH, PRESIDENT, AMERICAN ASSOCIATION OF EXPORTERS & IMPORTERS, ACCOMPANIED BY ROBERT LEO, STAFF ATTORNEY

Mr. MILOSH. Thank you and good afternoon, Mr. Chairman. My name is Eugene Milosh. I am president of the American Association of Exporters & Importers. I am accompanied by Robert Leo, AAEI's staff attorney, and by Mark Waynestock, director of programs and research.

The association is a national organization comprised of approximately 1,100 U.S. firms involved in every facet of international trade. Our members are active in importing and exporting a broad range of products including chemicals, machinery, electronics, textiles and apparel, footwear, foodstuffs, automobiles, and wines. Association members are also involved in the service industries which serve the trade community such as customs brokers, freight forwarders, banks, attorneys, and insurance carriers.

We are pleased to have this opportunity to address the U.S. Customs Service budget for fiscal year 1986. The funding for Customs' operations is of great concern to the association as many of our members deal with U.S. Customs on a day-to-day basis.

The association and Customs have always dealt with each other in a direct and honest, if not always harmonious, manner. Due to this longstanding relationship, a relationship which is frequently of an advisory nature, the association does not hesitate to point out problems to or ask questions of Customs. We believe both sides, as well as the public, greatly benefit from this exchange and we are pleased to say that, through discussion, many problems are resolved. This is not to say that we always reach a mutually satisfactory resolution. Indeed, on many occasions, we do not. There is, however, one area where we fully agree. The Service's resources are strained to the limit.

The problems faced by our members will be exacerbated dramatically by the proposed cuts in the Customs' budget for 1986. There are already drastic shortages in manpower on the West Coast, particularly in Los Angeles where many of our members are complaining bitterly. The association will be holding a 1-day conference on this very problem as it affects textile importers and retailers who are experiencing continuing delays in clearing goods. The proposed budget for fiscal year 1986 would necessitate a reduction of over 800 full-time personnel when more import specialists and inspectors are needed to ensure the bare minimum of service to the international trade community. We would encourage programs such as improving Customs automation and development of a periodic entry system which would help to make the service more efficient but would only resolve part of the problem.

The association believes that the Customs Service needs more trained personnel at appropriate levels of responsibility now: budget cuts would only worsen the current shortages and delays caused by the lack of personnel.

This shortage of manpower is complicated by another factor. The primary responsibility of the Customs Service should be international trade. In other words, achieve maximum utilization of Customs resources with minimum disruption of international trade. However, there is an unfortunate trend to view the Customs Service primarily as a narcotics interdiction agency. While interdiction of narcotics is a worthwhile cause, it is not the most efficient or correct use of the Customs Service's human and other resources. At present staffing and resource levels, Customs cannot be expected to continue as the major drug interdiction agency, the second leading revenue raiser, and at the same time to enforce the regulations of 40 odd other Federal agencies. If the Service is expected to continue in each of these roles, it must be given the resources to do so, to do the job in a balanced manner.

The association's interest is in the efficient flow of trade of both export and import. The Customs Service has an important responsibility in ensuring the free flow of international commerce and enforcement of the country's trade laws. The public interest demands that this be the primary mission of the Customs Service. In AAEI's view, the Customs Service does not have the resources necessary to meet these responsibilities.

The siphoning of funds from Customs already strained resources at a time when international trade needs to be supported and expanded is a major concern to associations such as ours. Reduction of Customs operating funds may also appear as a nontariff barrier that could invite similar measures from our trading partners. In this increasingly economically interdependent world, the United States needs a well-trained and adequately staffed Customs Service to ensure the free, consistent and efficient flow of goods in world trade and to ensure compliance with the country's trade laws. To this end, a reduction in the Service's budget is ill-advised and shortsighted.

On behalf of the members of the association, I thank you for this opportunity to present our views. We trust that our comments will prove useful to the subcommittee and we will be happy to answer any questions.

Mr. PEASE. Thank you, Mr. Milosh.

Chairman GIBBONS. Next is Mr. Spurney.

STATEMENT OF ALAN B. SPURNEY, SPOKESMAN FOR THE JOINT INDUSTRY GROUP, AND REPRESENTATIVE OF THE ELECTRONIC INDUSTRIES ASSOCIATION ON THE JOINT INDUSTRY GROUP, ACCOMPANIED BY LEONARD LEHMAN, COUNSEL

Mr. SPURNEY. Mr. Pease, my name is Alan Spurney. I am today's spokesman for the Joint Industry Group, being the Electronic Industries Association's representative on the Joint Industry Group.

Accompanying me is Leonard Lehman with the law firm of Barnes, Richardson & Colburn. Mr. Lehman is also an active participant in our group.

The Joint Industry Group is a coalition of over 50 trade associations, businesses and law firms which, being involved in international trade, are deeply concerned with operations of the Customs Service.

We welcome this opportunity to comment on customs and trade issues which are relevant to the subcommittee's consideration of the authorization of funds for the Customs Service. In our prepared statement we address five issues: country or origin rules, the Customs Service's Office of Regulations and Rulings, the concept of user fees, the need for a periodic entry system, and the balanced use of Customs resources.

With the understanding that our full statement will appear in the hearing record, let me focus my oral testimony on two of these issues.

First, the country of origin rules. These rules have many important effects on day-to-day trading operations, and in the long term on the very patterns of international trade. On August 3, 1984, the Customs Service issued its interim regulation amendments to become effective on September 7, 1984. They made unprecedented changes in internationally accepted country of origin principles applying to textile and apparel products. On October 5, Customs announced its intention to apply the same principles in these textile regulations to all commodities and to do so for duty assessment, marking and all other entry purposes.

The courts have upheld the right of the Customs Service to establish special origin rules for textile quota merchandise, citing Customs authority to enforce bilateral textile agreements. However, the Customs Service now claims that these changes conform to court rulings on the principle of substantial transformation in general: consequently, that the new principles should apply to all imports.

In the Joint Industry Group's view, that is an unacceptable reading of the statute and of the case law.

The traditional criteria for determining whether transformation has been substantial is that the article must have become a new article of commerce having a different name, character and use. The Joint Industry Group understands that departures from that fundamental principle may occur when articles enter the United States under preferential tariff arrangements or when they are subject to quantitative restrictions. We advocate that special criteria be established for those circumstances, but we oppose applying criteria aimed at meeting textile quota problems to ordinary general MFN trade.

Congress should determine whether changes should be made in the country of origin rules. We encourage the subcommittee to initiate steps in that direction. Meanwhile, the Customs Service should hold its administrative changes in abeyance.

My second issue is the need for a periodic entry system. We recognize that the current budget squeeze will likely result in a reduction of Customs personnel and, accordingly, of the Service's promptness in handling imports. The Joint Industry Group suggests an alternative, namely to improve the productivity of the Customs establishment. One means of increasing productivity would be for Customs to adopt the periodic entry system.

In early 1982, the Joint Industry Group first recommended to Customs this new system which, we believe, would require fewer on-line Customs officers. Major savings would, in our opinion, be derived from processing entries and collecting duties on a consolidated and periodic basis rather than by insisting on an individual entry for each shipment.

The system that we propose would permit an importer or broker to submit a single entry summary to cover all entries of merchandise within a Customs district during a period of, say, 10 days. Import duties would be aggregated and paid monthly. This would dramatically decrease the number of entry documents and checks that Customs would have to process and the number of Customs officers entailed in the processing. Nor would this system disrupt the service's cash flow.

We ask the subcommittee to lend its voice urging the Customs Service to design, in consultation with industry, proper tests of the periodic entry system. Such a merchandise entry and duty payment system could improve the productivity of the Customs establishment.

On behalf of the Joint Industry Group, I would like to renew our longstanding offer to cooperate with the Subcommittee on Trade in any way that might be helpful. Thank you.

[The prepared statement follows:]

STATEMENT OF ALAN B. SPURNEY FOR THE JOINT INDUSTRY GROUP

Mr. Chairman, Members of the Subcommittee on Trade, my name is Alan B. Spurney, spokesman for the Joint Industry Group and representative of the Electronic Industries Association on the Joint Industry Group. I am accompanied today by Leonard Lehman with the law firm of Barnes, Richardson and Colburn, and an active participant of the Joint Industry Group. The Joint Industry Group is a coalition of over fifty trade associations, businesses and law firms which, being involved in international trade, are deeply concerned with operations of the Customs Service.

We welcome this opportunity to comment on customs and trade issues which are relevant to the Subcommittee's consideration of the authorization of funds for the Customs Service, as well as to the Subcommittee's oversight responsibility for customs and trade legislation and administration.

While the Joint Industry Goup has not taken a position with respect to the funding of specific Customs operations in the FY 1986 Budget, we would like to address five issues which are related to budgetary pressures and the need for balance in the use of Customs resources. These issues are:

(1) Action taken by the Customs Service to change the Country of Origin Rules without reference to the legislative proces;

(2) The Customs Service's attempts to reduce the importance of its own Office of Regulaitons and Ruling;

(3) The irrationality of imposing user fees on basic Customs functions;

(4) The need for a periodic entry system; and

(5) The imbalance caused by concentration of too much of Customs' financial and human resources on Enforcement.

Changes in Country of Origin rules have many implications for trading operations, both day to day and long term. Because of the importance of those implications, let me first discuss the concerns of the Joint Industry Group with the actions of the Customs Service respecting Country of Origin Rules.

COUNTRY OF ORIGIN

On August 3, 1984, the Customs Service issued "interim" regulation amendments (49 Fed. Reg. 31248) effective September 7, 1984 which made unprecedented changes in internationally accepted country-of-origin principles applying to textile and apparel products. Ostensibly aimed at "circumvention" of bilateral import quotas, there was not even an attempt to measure the costs of these "regulatory amendments" in terms of immediate business operations or longer economic impacts.

In an October 5 ruling, Customs announced its intention to apply the principles in these textile regulations to *all* commodities for duty, marking, and all other purposes related to the importation of foreign-manufactured products into the United States. Customs officials have reiterated this intention—notwithstanding the fact that the vast majority of over 600 comments submitted in the rulemaking proceeding by U.S. retailers, shippers, importers from a variety of industries, Members of Congress, and foreign governments have vehemently opposed the regulations.

It is bad enough that the Customs Service is seeking to change the rules for determining Country of Origin by merely publishing a new regulation in the Federal Register. It is even worse that in doing so the lack of due process made it impossible to examine the economic costs of those changes. The Courts have upheld the right of the Customs Service to establish special origin rules for textile quota merchnadise under the authority to enforce bilateral textile agreements. In addition, the Customs Service claims these same changes conform to Court ruling with respect to the principle of "substantial transformation". This is an unacceptable reading of the statute and of the case law.

The Joint Industry Group is prepared to submit a listing of case law to demonstrate that the changes in regulation do no conform to court rulings, made recently or made in the past. Moreover, the Court Decisions on the right of the Customs Service to issue Rules for textile quota merchandise did not pass on the substance of those rules under existing case law.

Finally, to extend the amended regulations as a universal test of Country of Origin for all customs purposes is to compound the error. Therefore, because of what has transpired with respect to the regulation on Country of Origin on imports of textile products and what Customs has indicated will transpire with respect to the regulation on Country of Origin for all Customs purposes, we feel there is a need for Congress to determine if a change in the law regarding Country of Origin is required.

It is the position of the Joint Industry Group that the Customss Service should enforce the traditional and well-recognized principle, extensively developed in case law, that an article of commerce should be regarded as having originated in that country where it was wholly grown, produced or manufactured. Or, in the case of an article not wholly the growth, product of manufacture of one country, the article should be regarded as having orginated in that country where it was last substantially transformed.

The traditional criteria for determining whether transformation has been "substantial" is that the article must have been transformed to a new article of commerce having a different name, character and use. The Joint Industry Group understands that departures from that fundamental principle may occur when articles enter the United States under preferential tariff arrangements or when they are subject to quantitative restrictions. It may well be that the special criteria established for determining entry may require special rules governing preferential or discriminatory access. The Joint Industry Group opposes applying such new criteria—aimed at meeting the special problems of import quotas, export restraints or preferential tariffs—to the determination of country of origin for the purpose of ordinary "MFN" trade. Further, it is the position of the Joint Industry Group that only Congress can determine if changes should be made in the basic determination of Country of Origin. Therefore, we urge the Subcommittee to take the necessary steps to determine if changes in the statute regarding Country of Origin determinations is required, and to instruct the Customs Service to withhold changes in its regulation until the Subcommittee can make that judgment.

OFFICE OF REGULATIONS AND RULINGS

The remarks with respect to amendments to the regulation on Country of Origin determinations should not be interpreted as an attack on the Office of Regulations and Rulings. Indeed, the Joint Industry Group reiterates it support of a strong, independent Office of Regulations and Rulings in Customs Headquarters to provide uniform and objective interpretations of Customs laws for the business community. We do not know what conclusions have been reached, if any, in a study that we understand is being conducted within Customs to consider, among other options, the transfer of the functions of that Office to the Office of Regional Counsel in New York, in conjunction with a determination of whether Customs Headquarters has been "over-lenient" in overruling decisions made in the field offices in the matter of valuation and classification as well as penalties.

The Joint Industry Group believes that what happens to the Office of Regulations and Rulings is of concern to the international trade community. The Office was intended by Congress to serve a quasi-judical role in penalty matters to afford an unbiased review of penalties imposed by field officers and to assure a disposition of penalties in accordance with the law as amended by the Customs Procedural Reform Act of 1978, Public Law 95-410, a statute, I might add, which was authored by this Subcommittee. The international trade community is concerned that the atmosphere of enforcement evading the Customs Service, as evidenced by a number of public statements by Customs officials, will impinge upon the independence of the Office of Regulations and Rulings in fulfilling its proper quasi-judicial role. Periodic review of functions and operations is one thing. An investigation identified as checking "overleniency" by ORR attorneys attempting to dispose of penalty, value and classification matters without bias and in accordance with the law, is likely to make their decisions less objective and less fair.

Further, it has been the usual practice of local Customs officials, sanctioned by Headquarters, to resolve doubts in favor of "protecting" the revenue". On administrative reveiw, however, Headquarters, at least in theory, has attempted to resolve classification and value questions in accordance with existing law. In other words a balanced approach to Customs administration. Any change in policy requiring an aggressive support by legal reviewers of a parochial "Customs position" would be contrary to fairness and equity, work against good relations with the entire import community, substantially increase litigation, and result in increased costs for Customs administration and in higher consumer costs for imported products.

Such a policy with respect to penalties assessed in the field would be particularly objectionable. The record shows that local agents tend to compute penalties on the highest possible basis, ignoring mitigating factors and often greatly overstating the value of merchandise involved. The absence of meaningful review, at headquarters, would make the local agent the prosecutor, judge and jury.

In terms of the existing budgetary situation the ORR staff has already been reduced substiantially be size, by budget reductions and by attrition. A proposal to disperse these officials from Customs Headquarters to the Regional Counsel's office would greatly diminish efforts to achieve and maintain uniformity of treatment of duty assessments on imports, required by the Constitution.

There is a proper need for the public to be able to obtain an impartial review of legal problems by the staff of qualified attorneys in the Office of Regulations and Rulings in Customs Headquarters, Regional Counsels are partisan attorneys for the Regional Commissioners, as the Chief Counsel in Washington is adviser to the Commissioner of Customs. The function of these Counsels on behalf of the Customs Service differs materially from the function of the Office of Regulations and Rulings to rule impartially on legal questions presented, with respect to imported products.

The Joint Industry Group is concerned that further budgetary pressures will lead to further temptation to diminish or bring to an end through relocation a strong and independent Office of Regulations and Rulings. Therefore, we respectfully suggest that 1986 Customs Authorization Bill preclude changes in the status of the Office of Regulations and Rulings without 90 days prior notice to and consultation with the authorizing Committees in both Houses of the Congress.

USER'S FEES

Despite the fact that Customs revenues vastly exceed the budgetary requirements of the Customs Service, the budgeted funds have been reduced further. Under these circumstances there may be an attempt to seek "revenue enhancement" in one or more forms. The Joint Industry Group anticipates that the Customs Service or the Treasury Department, at the direction of OMB, will seek to reactivate a proposal they have made from time to time, namely, that "user's fees" should be collected from all parties entering goods into the United States. Such "fees" constitute charging importers a fee for collecting Customs duties from them. As such it could be likened to the Internal Revenue Service attempting to charge citizens for collecting their income tax. The Joint Industry Committee recommends that the Subcommittee resist any such "user's fee" recommendation from whatever quarter, and, if necessary, include such negative recommendation in its budgetary comment.

Budgetary reductions are usually interpreted as requiring a reduction in personnel and functions. The Joint Industry Group takes issue with this kind of reaction, particularly as it applies to the Customs Service. In industry we regard reductions in budgets as requiring better productivity without sacrifice of functional responsibility. Thus, while we recognize that the current budgetary situation will result in attempts to enhance revenues, reduce personnel, or both, the Joint Industry Group would emphasize the third alternative of increasing productivity in order to sustain performance requirements. One means of increasing the productivity of on-line Customs officers is the periodic entry system.

NEED FOR PERIODIC ENTRY SYSTEM

Both the U.S. Customs Service and the U.S. importing community are being inundated by the volume of paperwork required to satisfy the current procedures for processing imports and paying the duties assessed. The Customs Service is processing four million entries from over 190,000 importers. Each of these entries, I repeat, each of these entries, whether made by a small broker for a variety of clients or a large importer entering the same product or group of products again and again, requires the same numerous supporting documents—bills of lading, invoices, packing lists, entry summaries, various certificates, etc.—with duties, if any, separately assessed and paid on each entry.

The Customs Service has been obliged to process each one of this huge and growing volume of entries with substantially reduced manpower and financial resources, a budgetary condition likely to continue idefinitely.

The need to institute changes in procedures to manage this enormous flow of paperwork is recognized by Customs and importers alike. Customs has responded by increasing its automated information processing capability and by establishing alternative approaches such as the bypass program, Automated Broker Interface and the Model Ports Program. The Joint Industry Group believes that these are positive steps, but they are insufficient to achieve the magnitude of productivity improvements needed to cope effectively with the resource problem.

In early 1982 the Joint Industry Group recommended to Customs a new overall system which we believe would yield significant savings to Customs and importers. The major saving would be derived from processing entries and collecting duties on a consolidated and periodic basis rather than on the current individual shipment and individual entry basis.

It would permit an importer or broker to submit a single entry summary to cover all entries of merchandise within a Customs District (ultimately without any geographic limitation) during the statutory period (initially, ten days, ultimately, monthly). Import duties would be paid once a month on a date (probably the 15th of the month) that would not disrupt the present level of revenue flow to Customs. This would dramatically decrease the number of entry documents and checks that importers would have to prepare and Customs would have to process.

Further increases in productivity from our proposal would result from a centralization of processing of entry summaries. Those importers electing to utilize this procedure would be established as accounts. All processing of entry summaries, questions regarding classification and appraisement, and liquidations for merchandise imported by the account would be done by an account import specialist or team of specialists. The account approach would allow Customs to organize its processing of entry summaries by importer as well as by commodity and not by where an importation happened to be made.

Customs analysis of importations shows that a mere 3.3 percent of all importers file 62.2 percent of all entries. Thus, we believe that a more rational way of processing the entries of these approximately 5,000 major importers would produce significant productivity improvements and allow Customs to provide smaller or infrequent importers with more specialized treatment. Also this approach to centralized processing can be accomplished without redeploying Customs' personnel as is often the case in budgetary reductions.

Since our proposal does not change in any way the initial steps in securing the release of merchandise and the filing of the entry, it does not affect Custom's inspection and enforcement responsibilities or the timely collection of import statistics.

Our proposal would establish an optional system designed to deal effectively with large volumes of entries by major importers. As such, it would impose on the importers that elect to use it a higher standard of performance than for those using the existing procedure. This higher standard would be validated by Customs through an expanded and more sophisticated use of audits. As a voluntary and alternative procedure, no importers would be threatened or burdened by it. Moreover, Customs would be able to deny its use by those importers who fail to perform to the higher standards. On the other hand, nonusers of the periodic entry system would have nothing to fear since present procedures would remain available, presumably in the context of better resource balance within the Customs Service.

In response to our proposal, the Customs Service conducted a test of a very limited application of the account concept. For two volunteer test companies, 3M and Volkswagen of America, Customs assigned an account import specialist who served in an advisory capacity to other Customs officials with regard to classification and appraisement of the account companies' imports. The account import specialists were the principal contacts with and for the companies but were given no further responsibilities to process their entries. The test, which ran from February through December 1983, was important as a first step, but it was so modest that it cannot be considered a valid indicator of the potential for significant productivity improvements which we are confident would be achieved if our overall recommendations were implemented.

To the extent that these account specialists were added, in an advisory capacity, to the existing structure this naturally increased processing costs and did not fairly test the productivity potential of the actual proposal. Up to now the Customs Service has evidenced something less than enthuasism for the system, as indicated by its unwillingness to conduct a comprehensive and meaningful test of our total concept.

We will be glad to submit for the record a copy of the periodic merchandise entry and duty payment proposal which the Joint Industry Group submitted to Customs. We recommend that the Subcommittee lend its voice toward increasing productivity in the Customs Service by adopting, after appropriate tests, the periodic merchandise entry and duty payment system proposed by the Joint Industry Group. We are convinced that application of the system can increase productivity and improve the administration of entry and clearance procedures in a manner which facilitates commerce.

BALANCED USE OF CUSTOMS RESOURCES

With growing immigration and drug interdiction problems and other illegal border activities these problems entail, enforcement activities of the Customs Service, with its attendant press coverage, tends to overshadow the other statutory functions of Customs, including the facilitation of commerce. Under current budgetary pressures achieving a balance in the utilization of human and financial resources between enforcement and facilitation of commerce becomes even more difficult. For example, the geographic balance among the uses of Customs resources is very important. The recent pyramiding of the backlog of Customs entries in the Port of Los Angeles is a case in point. It is hoped that the Subcommittee in reporting its authorizing legislation and in conducting its Customs oversight activities will exert its influence on the Customs Service to assure the appropriate balance between enforcement and trade facilitation.

On behalf of the Joint Industry Group I would like to renew our longstanding offer to cooperate with the Subcommittee on Trade in terms of both its legislative and oversight responsibilities in any way that we can be helpful.

Thank you.

Mr. PEASE [presiding]. Thank you, Mr. Spurney.

I think that completes the testimony from this panel.

Mr. Spurney, let me talk to you first since you just finished your testimony.

You correctly note that there will be pressure if the level of personnel is reduced, and if the budget is reduced for user fees, and you are opposed to user fees, is that correct?

Mr. SPURNEY. That is correct.

Mr. PEASE. You say or your Joint Industry Committee——

Mr. SPURNEY. Joint Industry Group.

Mr. PEASE [continuing]. Believes in private business there is an alternative to increased revenue and to cutting service, and that is better productivity.

Mr. SPURNEY. Correct.

Mr. PEASE. Of which the periodic entry system is one suggestion you would make?

Mr. SPURNEY. Exactly.

Mr. **Pease**. Do you have a position on the proposal of the administration to cut the number of personnel slots for the Customs Service?

Mr. **Spurney**. We do not have a position as such. We cannot oppose budgetary diligence. We are trying to show that if the budget for the Customs Service must be reduced, it does not mean that the services it renders in the mainstream of commerce, as my colleagues have stated so well, must necessarily be reduced. Out in the private sector, when sales decline and operational budgets must accordingly be reduced, one does not immediately throw up his hands, saying that the cause is lost. One seeks more productive means of using even fewer personnel to accomplish the same productive results. Find a new way to do it. Customs has had this individual entry system for centuries. Now, in an era of greater magnitudes of trade, they should look for different, newer solutions.

Mr. **Pease**. I understand that. So you are not taking a position one way or another on the proposal to reduce the number of slots in the Customs Service?

Mr. **Spurney**. That is correct.

Mr. **Pease**. Mr. Shapiro, Mr. Milosh, what do you have to say about that? What is your position?

Mr. **Shapiro**. Mr. Pease, I think that what has happened is that Customs in trying to perform its mission has relied too much on automation and has, as the previous Treasury Employees Union said, has given up the traditional way of examining merchandise. And I just do not believe that a computer can do it. I do not believe that a periodic entry system can do it either. That is a tail wagging the dog. That is filing papers.

I believe there must be people employed by the Customs Service to know what to look for and who are made available to look for it. The Customs broker is a sort of officer of the Customs Service. We are depended upon to provide the necessary raw data for the Customs, and we can do it to a certain extent. But if they are not going to look at the merchandise, you are not going to perhaps collect the proper duty.

What they have done is said we will take a calculated risk. They are not examining 1 percent of the containers, they are examining about 10 to 20 percent of the containers.

But what the difference is, they open a container and look at a couple of packages within the container. You can only get into the back of the container and any contraband may be in the front of the container that you cannot get to. They now have a new technique where they are going to look intensively at 1 or 2 percent, where they are going to strip a container.

There are techniques that can make selectivity work. But you cannot rely on a computer telling you that they are going to work. You have got to have people there who just by experience can know whether the right duty has been collected, whether there have been violations, whether the cargo can move and to expedite the movement of that cargo which is as important as anything else in our international trade picture.

Mr. **Pease**. The bottom line, would you urge the subcommittee to reject the cuts in slots?

Mr. **Shapiro**. Yes, I do, but I would not like to have the subcommittee do what they did in the past, is to give them money and let it go for interdiction. They need it for the main line service they are supposed to render. They need inspectors. They need a retraining of their people.

The old line about the import specialist and the inspector to my mind is totally irrelevant. They need a retraining so you get a Customs officer who is a combination of both, who by virtue of his experience knows what to look for, and can process the shipment.

I would urge the subcommittee to reinstate the positions, but to put them on the line. You are really suffering—the Customs Service is suffering from an abysmal lack of moral today. They have lost some very talented people.

Mr. **Pease**. Mr. Milosh, what do you think? Would you agree with Mr. Spurney, that we can maintain the level of service with just more productivity?

Mr. **Milosh**. I think there are two parts to the problem. One is obvious. If we lower the personnel rate, there will be an immediate reduction in the quality of the service. Our members are already complaining on that score, as I mentioned before.

So, therefore, I would say we must maintain those levels, and I think also Deputy Commission De Angelus mentioned there is a lag time before automation and these moves to simplify and to make more efficient systems, there is a lag time between when that comes onstream and when we can expect to get the benefits.

So we would say maintain the personnel. The other part of the question is one where Customs has been asked to take on many other functions. As I mentioned, there are some 40 odd Federal agencies asking Customs to do things on their behalf, and in that respect if there is a user fee we would like to see an upstream user fee with those agencies involved in asking for these services, but not the importer and the people in the trade community, who would be taxed twice.

Mr. **Pease**. You understand my dilemma. The President has proposed cutting the Customs Service back in funding. That reduction is a part of the $50 billion in deficit reduction that the President mentioned in his State of the Union Message. If we reject that and reinstate the funding at a higher level so we do not have to make the personnel cuts, that makes it not $50 billion in deficit reduction, but 49 something billion. We are eating away at that, and if we do it for the Customs Service and other agencies, pretty soon we do not have any reduction at all.

Last fall President Reagan made it clear in the campaign he did not want to raise revenue, and he did not want to slow down the rate of defense spending. He did not want to touch Social Security, and he could not touch interest on the national debt, and he was going to get his budget savings out of domestic spending.

President Reagan carried 49 States, and maybe even some of your members voted for him. What are we supposed to do now?

Mr. **Shapiro**. May I answer that? I think you lost sight of the fact that the Customs is a revenue producing agency, and I think the money would be well spent to enhance their staffing. I think you collect tenfold over.

Mr. **Pease**. So you feel that if we increase the number of Customs agents that we could actually pay for them, and then some?

Mr. **Shapiro**. Do not use the words Customs agents.

Mr. **Pease**. Customs inspectors.

Mr. **Shapiro**. I think Customs ought to get back to being an administrator and a policing administration, and collect the duties, and do their job, and help to promote international trade.

Mr. **Pease**. Well, does anybody else have any solution for us, given that we are politicians and are supposed to be looking at the election results?

[No response.]

Mr. **Pease**. Well, I think, Mr. Milosh, you mentioned the people of your group in the Los Angeles area are especially unhappy. Mr. Stark mentioned early on the possibility of user fees.

If the choice comes down to the budget as submitted by the administration, with fewere Customs personnel, or some way of using user fees to increase the number of personnel, that is your choice? How do you come down?

Mr. **Milosh**. As an association we do have a policy that we are opposed to user fees. I might add, even in the Los Angeles area, and other areas, importers have been paying for Customs overtime and time on the job, so there has been a form of that already put in place.

Mr. **Pease**. Mr. Shapiro?

Mr. **Shapiro**. The user fee issue that came up several years ago when Customs was examining it was far in excess of what they are considering in fees now. They want to put a fee on every entry, like giving you the privilege of paying for their collecting their duties from you, like a licensing fee for filing your tax returns.

First of all, I think that that is outside. I think GATT would have something to say about that, and our association is unalterably opposed to something like that. We think it would be counterproductive as far as our national policy is concerned.

Mr. **Pease**. So if we, as a subcommittee, decide to try not to breach the budget figures presented by the President, then we just have to live with the reduction in Customs personnel, and hope, Mr. Spurney, we can get the same kind of service.

Mr. **Spurney**. Please understand that the revenues produced by the Customs Service are 18 times its budgeted expenditures.

Mr. **Pease**. I understand that, but there is no trust fund, though. That is the problem. If we could set up a trust fund so we knew the increased number of Customs personnel would generate a certain amount of revenue, and it would stay in there and pay for their salaries, it would probably be a little easier to make that connection.

Mr. Frenzel, do you want to ask questions?

Mr. **Frenzel**. Thank you, Mr. Chairman.

I think we do have to be careful about user fees. This is not a service to the importer or broker, exporter, or anybody else. It is a means for the Government to finance itself. It is a service to the Government, not to the people who happen to be in the chain of commerce.

I think it would be kind of silly to go into a user fee, and yet I guess one can only applaud efforts by the Government to increase their revenue.

But to call a tax, an extra tax, a user fee is, I think, abusing the rules of euphemism. [Laughter.]

Mr. Milosh, you indicated that Customs had been asked to take on other duties. My own personal judgment is that the Service not only asked, but walked into other duties, on its own motion, and has tried to reproduce most of the other agencies of Government within its own little agency, and I do not think anybody asked them to be Sam Spade on some of the controls, and yet they think that they are the FBI and the OSS combined. They have got a wonderful little brochure they just printed up about all their international activities, how they are going to promote their services in the international community, and tell all the other Customs Services of other countries how to operate.

They have been perhaps the most aggressive agency seeking funds for drug control. I think at some point we have got to call a spade a spade, and say they have not been asked to do these things. They are doing them. They have asked to take on the duties, and in some cases they have just gone ahead and taken them on.

I guess I agree with what I thought I heard Mr. Shapiro say, that if they are going to be the drug agency, let us isolate the drug budget. Let us let somebody else authorize that, and we will pass that on to Bill Hughes, or somebody, and we will worry about the function that concerns this committee, and that is that the wheels of commerce continue to spin.

What are your thoughts on doing that?

Mr. **Milosh**. I would agree in the oversight capacity of Congress you should look at the management of the Customs Service and, obviously, from the standpoint of the international trade community, a Customs air force would not help speed up entries, unless they used the planes to fly the documentation to Washington. [Laughter.]

Mr. **Frenzel**. Mr. Shapiro, are you supporting the Treasury union suggestion that we increase, or are you saying that we should not decrease, or that we should finance just the right number of people to handle the job perfectly?

Mr. **Shapiro**. Obviously, the third solution is the right one. I am supporting the Treasury employees' suggestion, with a slight modification. I think that there ought to be some retraining of the field Customs Officers. There has got to be a merging of the import specialists with the inspector, to create a new Customs Officer, who cannot only create the paperwork, but knows what to do with it.

In the textile area, import specialists are coaching inspectors on what to look for, because they cannot run out of their offices and go down to the piers. But I think you need people on the spot. I think you need the teamwork you had prior to these Draconian cuts that have been made, where there was a great deal of coordination among the Customs Officers; and a great deal of cooperation between Customs and the importing community that moved cargo.

A district director said to me the other day that if he has got a grade 4 CRT operator out sick, the whole bloody port goes down, because the computer will not work, but if he has an inspector out sick, he can grab an inspector from someplace else, and he with some intelligence and training can move the cargo.

Mr. Frenzel. More likely he changes the seals, and sends it out. [Laughter.]

I agree with you. I think that is important. We need more cooperation.

I noticed one of the other witnesses was talking about the trade playing cat and mouse, and taking advantage of the law. I do not think the trade wants to do that. I think it wants to pay what its rightful costs are, and to move the stuff.

Mr. Shapiro. I agree with you.

Mr. Frenzel. I have always been nervous with your group coming in, saying give us more import specialists, because they do not look like action people. They look like the clog in the sieve, that keeps the water from going through. But I guess to you they look like the only guy who can move the bottleneck, and get the papers through.

Mr. Shapiro. It is somebody to talk to.

Mr. Frenzel. It is always nice to have somebody to talk to.

Mr. Spurney, your testimony, which I was not privileged to hear, indicates that you are nervous about the country of origin regulations, because they seem to apply to all products, not just the textiles.

Mr. Spurney. That is right. The intention of the Customs Service is to apply the principles of the textile rule across the board. This is in their ruling of October 5.

Mr. Frenzel. Those rules are within a hair's breadth of being approved, are they not?

Mr. Spurney. We have asked, in our testimony, and I was very, very happy to hear you this morning when the Customs Service was testifying, questioning their ability——

Mr. Frenzel. I do not question them. I think they are insane.

Mr. Spurney. We feel the same way.

Mr. Frenzel. What they are doing is writing trade law for the United States, and they have usurped the powers of Congress, which pretty near any GS-3 can do around here. But this is a particularly sweeping usurpation, because it goes beyond the textiles which they seek to cap, and we have no idea how it is going to affect commerce. We do not know how they are going to interpret the regulations, how they are going to enforce them.

I do not know how to slow them down, though, other than to fire bomb the Treasury. It looks like those things are pretty well launched.

Mr. Spurney. I could remind you that the International Trade Commission is right now conducting a study of the rules of origin problem. I could remind you, also, that Bill Brock has asked GATT to create a working group so they can seek a multilateral solution to it.

Mr. Frenzel. They should have done that in the first instance. Treasury or, rather, the Customs Service had, in my judgment, no reason to go forward, other than good political reasons.

Mr. Spurney. That is right.

Mr. Frenzel. I wish we could at least modify them to the extent that if those rules were drawn to repudiate our GATT obligations, and our MFA obligations for textiles, at least we should not make them so sweeping that they repudiate all the rest of our operations.

Mr. SPURNEY. Precisely.

Mr. FRENZEL. This administration, which stands so foursquare for free trade, might want to keep a tiny portion of our trade free. I will lend my best efforts to that, and I am glad you mentioned it, and spread it on the record here. It is an important point.

Mr. SPURNEY. Thank you, sir. I am glad to hear that.

Mr. FRENZEL. None of us know how it is going to effect our commerce. It depends on the whimsy of Customs enforcement and interpretation, which is whimsical, because of the reasons that you guys have all pointed out. They have got more to do than they can possibly do. They are not malicious people. They just cannot do all the things we would like to have them do.

I think your testimony is very helpful. As I said to somebody, I guess it was Mr. De Angelus, we are certainly going to authorize more people than the administration has requested, in at least your business end of the operation. How many that is going to be, I do not know.

Again, I warn that we do not have all the money in the world, and even when we authorize, we seldom get our friends in the other body to give us an authorization bill back, and so we normally depend on the Appropriations Committee, which operates for its own reasons, as you have heard the union officials indicate. So there are a lot of hurdles on the way, but I think the testimony of each of you has been a very helpful thing to us, and we may not be totally irrelevant. We will try to make our insignificance as less insignificant as we can in the process.

Thank you all very much.

I yield my time, Mr. Chairman.

Mr. PEASE. Thank you, Mr. Frenzel.

Thanks to all our panel members. We appreciate your coming by today.

Our next witness will be Peter B. Mulloney, chairman of the Committee on International Trade of the American Iron & Steel Institute.

STATEMENT OF PETER B. MULLONEY, CHAIRMAN OF THE COMMITTEE ON INTERNATIONAL TRADE, AMERICAN IRON & STEEL INSTITUTE, AND VICE PRESIDENT AND ASSISTANT TO THE CHAIRMAN, UNITED STATES STEEL CORP.

Mr. MULLONEY. Thank you, Mr. Chairman.

I am chairman of the Committee on International Trade of the American Iron & Steel Institute and vice president and assistant to the chairman of the United States Steel Corp.

Mr. PEASE. I wish to apologize for the fact that you have had to wait this long. We are conscious also of the fact that you have a plane to catch, so we will move immediately to your testimony.

Mr. MULLONEY. My comments today are made on behalf of the American Iron & Steel Institute and its domestic member companies.

The AISI welcomes the opportunity to speak to the Subcommittee on Trade on the fiscal year 1986 budget for the U.S. Customs Service.

The American Iron & Steel Institute has, at the invitation of the U.S. Customs Service, during the last decade participated in national training seminars for import specialists, laboratory personnel, and dockside inspectors, who process steel imports. This participation by AISI personnel and technical products experts from our member companies has had as its purpose improving the Customs Service employee's ability to properly classify important steel products. Requests by the Customs Service for technical training of this type have substantially increased in the last few years and the AISI and its member companies have been pleased to participate in these seminars.

The American steel industry has offered its time and talents to the Customs Service for these seminars for three reasons:

First, the proper evaluation and classification of steel products ensures that the correct duty is charged on imported steel products. Import duties have an impact on the steel marketplace.

Second, import specialists are the experts who classify steel products and supply data on these products to the Commerce Department. These data in turn are our only source of aggregate market information on imported steel. The ongoing marketing, pricing and investment decisions involving many hundreds of millions of dollars yearly which are made by our member companies are, therefore, significantly affected by the data collected by the Customs Service import specialists. Thousands of steelworkers' jobs are also affected by these investment decisions.

Third, import specialists provide the first line of defense against customs fraud. A high level of expertise in classifying steel products for customs purposes is an invaluable asset in this important law enforcement effort.

The AISI and its member companies have also been involved in other endeavors to assist the Customs Service in performing its functions. For example, during the last year, AISI member companies which have had plant closings have offered excess metallographic equipment to the Customs Service laboratory system. In addition, the AISI is in the process of establishing a customs fraud alert network which will provide customs fraud leads to the Customs Service's Steel Tripwire Program officials.

As an industry which has a critical interest in the proper classification of imported products, we are particularly concerned that the Customs Service is becoming increasingly incapable of performing its functions with regard to steel imports despite a highly motivated and, in all ways, exceptional workforce. While on the one hand the number of exporters, import specialists, and laboratory personnel have declined sharply over the last few years, steel imports have increased substantially. Moreover, because of the increased number of unfair trade cases and subsequent antidumping and countervailing duty findings and other actions taken under U.S. trade laws, the work load of the Customs Service has increased substantially.

While we understand and applaud the administration's motivation with regard to reducing the U.S. government budget deficit, we question the inclusion of the Customs Service personnel involved in classifying imports and collecting Government revenue in such a reduction program. It is our understanding that the U.S. Customs Service collects approximately $20 for each $1 expended by the Customs Service. It would appear to us that this organization should be the subject of generous funding under the administration's budget proposals instead of the subject, as it has been, of severe budget cuts and staff reductions.

That customs fraud is a serious problem impacting on the U. S. steel market is evident by the Customs Service's establishment of the Steel Tripwire Program in 1984 and the now increasing list of major trading companies and steel producers which have been successfully prosecuted. These companies include Mitsui, Thyssen, Daewoo, and, recently, an unnamed Greek steel exporter which had its product seized by the Customs Service. In addition, we understand that the Customs Service's Steel Tripwire Program has 75 significant customs fraud cases in process.

Hearings held last year by Congressman Dingell's oversight subcommittee underscored the seriousness of customs fraud. It was estimated by customs import specialists who testified that 30 to 50 percent of all entry documents are in error in some way. While not all of these involve customs fraud, it is clear that attempts at evasion of U.S. duty, including fraud, are included in some substantial percentage of these errors. The import specialists testified that nearly all of the errors were in the importers' favor. However, regardless of the type of error involved, it is clear that it takes the expertise of import specialists and other customs employees to process and correct these documents.

We have recently become aware that the shortage of key Customs Service employees—import specialists, dockside inspectors, and laboratory personnel—has resulted in the Customs Service becoming unable to properly process import documents on a timely basis. More specifically, we are informed that the paper-processing backlogs in major steel ports presently run from 2 to nearly 6 months behind schedule and three of the four largest steel ports of entry, based on 1984 figures, are among the most seriously affected, those ports being, the largest, Houston, the second largest, Detroit, and the fourth largest, New Orleans.

This is really not surprising, given that 1984 steel imports on a tonnage basis were nearly 80 percent greater than in 1980, yet the number of steel import specialists has declined by over 30 percent in major steel ports of entry over that period. And I might say, parenthetically, that while we do not at this time have a firm number, we understand that the inspectors have declined substantially also during that same period of time.

For practical purposes, this means that imports arriving in June of one year may not show up in official U.S. import statistics until November or December of that year. As these backlogs grow and persist, U.S. imports statistics become increasingly useless as a tool for analyzing market trends. Moreover, the effective enforcement of U. S. trade laws becomes impossible as document processing lags by months the release of goods into U. S. commerce. If the staff problems already evidenced in the Customs Service continue, in the long run—and the long run is almost here—the Customs Service will become completely unable to enforce findings made under U.S. trade laws.

The President's Steel Program is currently being established by the U.S. Trade Representative's office. This program requires full and timely monitoring of imports by country of origin and by precise product identification. It is hard to imagine that this process can be successful if the Customs Service is unable to monitor imports in a prompt and accurate manner.

It is our understanding that the U.S. Customs Service presently examines less than 2 percent of all goods which enter the U.S. We believe that such a figure in no way is sufficient to deter customs fraud. In addition, we understand that no U.S. port of entry routinely checks the weight of steel imports. We hope that the Congress will ensure that the Customs Service hires sufficient numbers of inspectors to enable it to carry out its important responsibilities.

We believe that the Congress should increase substantially the U. S. Customs Service's budget for fiscal year 1986 in order that the trend for the last few years is reversed. Specifically, we believe that the Customs Service budget should include sufficient funds to fill the reported 500 vacancies which it had prior to the passage of the Trade and Tariff Act of 1984. In addition, import-sensitive product lines such as steel should have substantially more manpower attached to them in order that the Customs Service will be able to give more time to these critical imports.

Mr. Chairman, gentlemen, thank you for your attention. I will be happy to respond to any questions you may have.

Mr. PEASE. Thank you, Mr. Mulloney, we appreciate your testimony.

When do you need to depart the hearing room?

Mr. MULLONEY. It would be helpful, Mr. Chairman, if I could in about 10 minutes.

Mr. PEASE. OK. I promise not to take more than 3 minutes and divide my time up with my two colleagues.

Mr. MULLONEY. However, sir, I will stay as long as is necessary.

Mr. PEASE. OK, fine. Were you here this morning for the testimony of Mr. De Angelus?

Mr. MULLONEY. Yes, sir.

Mr. PEASE. You heard me ask him how many slots they had unfilled—he answered about 325.

Is that comparable to your 500 figure?

Mr. MULLONEY. I made a note, Mr. Chairman, which may be incorrect, but I thought he broke it down to 206 inspectors, 246 import specialists, and 50 lab personnel. Now, maybe that wasn't Mr. De Angelus, that might have been one other answer that was given.

Mr. PEASE. Well, we ought to check that out just to see what it was.

Your testimony, "the number of steel import specialists has declined by over 30 percent in major steel ports of entry" since 1980, "For practical purposes, this means that imports arriving in June of one year may not show up in official U. S. import statistics until November or December of that year." Mr. De Angelus seemed to be unaware of that situation also, and, while he said he would check into it, it was a little distressing to me that he was unaware of it even.

Certainly I can understand why this lag would present a problem and make it difficult to enforce the President's Steel Program. I am wondering, at least as a minimal response, whether we shouldn't require or try to get the Customs Service to aggregate their responses by month; in other words, if they are going to report in December and some of those figures are for June and July and August and September and October and November, we ought to get them to report not a single figure in December, but the figures for each one of those months aggregating whatever the total is, so that as you run along and accumulate some additional months, at least you can get a better idea and have an accurate picture at some point—it may be late, but at least at some point you have an accurate picture.

Would such a suggestion, do you think, be helpful?

Mr. **Mulloney**. I think it would be helpful, Mr. Chairman, because you would then have running totals, and at a certain point you would have a firm total. It would be better than looking at a number today which we all look at, and we publicize it and we live with it and we know it's wrong. And that, you know, is not a good way to use numbers.

So that probably would be an improvement. Of course, the greatest improvement would be to have the paperwork processed in the most expeditious manner so that in the shortest period of time we would have final numbers for a given month.

But I think your suggestion, sir, would be an improvement over what we have today, yes.

Mr. **Pease**. Well, thank you. I hope the staff will take note. I am hoping the subcommittee in its committee report will urge the Customs Service to come up to speed, but also will urge that they provide a breakdown of figures of each month for the actual month when the items came in, and that would give us accurate figures and also, presumably, spur them on to get up to speed themselves.

I am going to defer any further questions I might have and give my colleagues an opportunity.

Mr. Frenzel?

Mr. **Frenzel**. Mr. Chairman, I thank you for yielding. I know our witness is on a short leash—and he has been very patient all day, and we appreciate his staying here to give us this testimony, and I think that he is not an infrequent visitor to these halls and we can always amplify his statements in the future.

Thank you very much, sir.

Mr. **Mulloney**. Thank you, sir.

Mr. **Pease**. Mr. Schulze?

Mr. **Schulze**. Thank you, Mr. Chairman. Thank you, Mr. Mulloney for your patience and for staying as long as you have.

I would assume from your testimony that you feel that the Tripwire Program has been successful.

Mr. **Mulloney**. I think that the personnel manning the Tripwire Program are outstanding people, absolutely dedicated to their mission, and that as they have found evidence of fraud I believe that they have pursued that in the most expeditious manner that they knew how. That is not the same thing sir, as saying that it has been successful, because I would suspect—and I obviously do not have proof of this—but I would suspect that because of the lack of inspection of product coming across the docks, coming through the ports, that there are probably instances that the Tripwire personnel just are not aware of.

But in terms of the job they are trying to do, I believe that the steel industry would give them the highest praise.

Mr. SCHULZE. I am sorry that I missed Customs today—I've had a busy day. I intended to ask them the question that you just related to, and I intended to ask them whether there were times when the profile kicked up and yet they had insufficient personnel to follow through on that instance.

I am concerned about statements that have come out of Customs that even if they got additional personnel, they could not be utilized because the profiles are now being taken care of in an expeditious manner. Obviously you are not in a position to answer that question, but the question I would like you to answer is if, as there have been, I understand, in some instances, there are repeated violations of labeling that would lead one to believe there is a pattern of customs fraud, do you have any recommendations as to how we could set penalties that would be stiff enough to try to prevent that kind of thing without getting to the incidental or the unintentional mislabeling? In your statement you said that there was a great deal of problems with the paperwork, and I presume some of that is unintentional.

Mr. MULLONEY. Yes, sir, I would presume that.

Mr. SCHULZE. So we want to penalize those companies or individuals who are deliberately trying to fraudulently bring goods into this country.

How would your recommend we do that?

Mr. MULLONEY. I don't feel equipped to directly answer your question, but we will be happy to come back to you with a recommendation in that area.

I understand your question completely, Congressman.

Mr. SCHULZE. It seems to me that if we build in severe enough penalities, it could make not only enforcement a little bit easier, make your job easier, easier all the way around.

I would appreciate very much having your or the AISI's thinking.

Mr. MULLONEY. Yes, sir, we will do that.

Mr. SCHULZE. And I thank you again for your forbearance this afternoon.

Thank you, Mr. Chairman.

Mr. PEASE. Well, thank you very much, Mr. Mulloney. We have gotten you out 2 minutes before your deadline, and I hope very much you will catch your plane. And we do certainly appreciate your patience and your good testimony.

Mr. MULLONEY. Mr. Chairman, members of the committee, thank you very much.

[The following was subsequently received:]

AMERICAN IRON & STEEL INSTITUTE,
Washington, DC, March 15, 1985.

Hon. RICHARD T. SCHULZE,
Committee on Ways and Means, Subcommittee on Select Revenue Measures, Subcommittee on Trade, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SCHULZE: During my testimony before the Trade Subcommittee on the Customs Budget for fiscal year 1986 you requested we respond to you on how the government could most effectively penalize companies or individuals who are deliberately trying to import goods into the U.S. fraudulently.

The simple answer to your question is that importers who commit customs fraud should be penalized to the maximum extent possible under both criminal and civil statutes. However, this issue is not that simple. Differing priorities in the two prosecutorial agencies—Department of Justice and the Customs Service (under the Department of the Treasury)—and differing rules governing the gathering of evidence as between criminal and civil cases make this goal difficult to reach. A case in point is the best know steel fraud case to date—Mitsui. There are those in both the steel industry and the government who believe that the fines paid by Mitsui—in excess of $11 million—did not offset the profit made from the fraudulent practices employed by Mitsui.

Our specific suggestions for improving the government's ability to uncover and then effectively prosecute customs fraud are as follows:

(I) It is our understanding that there are some technical legal reasons why the Customs Service and the Justice Department have not been able to impose maximum civil penalties on firms convicted of customs fraud. Senator Heinz has introduced legislation—S. 429—which should rectify these problems. S. 429 would change present law as follows:

(i) Extend the statute of limitations for negligence and gross negligence to five years from date of discovery of the violation. Present law only allows for a five-year statute of limitations from the date of discovery in cases where fraud is alleged. In cases of negligence and gross negligence the statute of limitations is five years from the date of violation. Because Customs attorneys wait until the U.S. attorneys finish with the criminal proceedings, they often run out of time before they can properly pursue a civil case. This change in the law will give Customs attorneys more time to gain access to grand jury materials in those cases where the initial investigation only yields enough evidence to show negligence or gross negligence.

(ii) Two recent Supreme Court decisions have made it more difficult for Customs attorneys to obtain evidence developed by criminal prosecutors through a grand jury. Thus, under present law Customs attorneys must begin a civil case from scratch. Senator Heinz's legislation would allow Customs attorneys greater access to grand jury evidence.

The AISI strongly supports Senator Heinz's legislation.

II. In addition to the above change in law, we believe that there should be more emphasis placed on civil penalties for customs fraud. The Justice Department has tended to concentrate its efforts on obtaining criminal convictions, or criminal convictions with negotiated civil damages. The result of this approach may have been to inadvertently encourage customs fraud because the cost of getting caught is less than the profit from the fraud. Thus fraud penalties can be viewed by importers as part of the cost of doing business in the U.S.

We suggest that the Justice Department and the Customs Service give a higher priority to obtaining the maximum criminal and civil penalties for customs fraud. These penalties must be severe enough and certain enough to make customs fraud a losing proposition.

III. In addition, because incarceration is a penalty available to the Department of Justice for criminal fraud, we believe it should be used. Department of Justice officials indicated to an American Iron and Steel Institute group during a 1983 meeting on this subject that they did not view incarceration as an appropriate penalty for a criminal customs fraud conviction. We find this attitude troubling—especially given the Department of Justice's hawkish view of incarcerating other "white-collar" criminals under the antitrust statutes. We believe that the fear of jail is a good deterrent and should be used in serious cases.

We believe that the above changes in law and in priorities could substantially improve the government's ability to prosecute customs fraud cases and would make customs fraud too risky and expensive for importers to attempt. However, in order for these changes to have the desired impact, they must also be accompanied by a substantial increase in Customs' budget in order to provide the necessary staff of import specialists, dockside inspectors and laboratory personnel.

Thank you for your interest in this subject. If we can be of further assistance, please let me know.

Sincerely yours,

Peter B. Mulloney,
Chairman, International Trade Committee.

Mr. Pease. Our next panel consists of Mr. Dick Warden, legislative director of the United Automobile Workers Union; Mr. John Powderly, legislative representative for the United Steel Workers of America; and Mr. Harold Williams, president, Industrial Policy Council.

Mr. Warden, why don't you proceed.

STATEMENT OF DICK WARDEN, LEGISLATIVE DIRECTOR, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA [UAW], ACCOMPANIED BY EUGENE I. CASRAISS, JR., LEGISLATIVE REPRESENTATIVE

Mr. Warden. Thank you very much, Mr. Chairman. My name is Dick Warden, I am the legislative director of the UAW, and I am accompanied this afternoon by Gene Casraiss, a legislative representative in our Washington office.

We appreciate very much the opportunity to be here today and to express our views on the 1986 budget for trade adjustment assistance. With your permission, Mr. Chairman, I would like to ask that our full statement be filed in the record, and I will go ahead and summarize it.

Mr. Pease. You may do that.

Mr. Warden. The UAW represents more than 1 million active members and their families. We are here on behalf of those members.

The administration, unfortunately in our view, has recommended that this program terminate on September 30. We hope this subcommittee, on the other hand, will recommend continuation of the program, and we believe that it should be reauthorized for at least 5 years.

This is a program which, as you said, Mr. Chairman, has been a compact with American workers in exchange for their support for the Trade Act of 1962 and then the extension and improvement in 1974. What was true with American workers generally was true specifically of the UAW. We did support the Trade Expansion Act of 1962 and the Trade Act of 1974 with the understanding that there would be a trade adjustment assistance program to accompany those more liberalized trade policies.

We all know what happened in 1981 and the devastation in this program that was caused by the reconciliation legislation: The program has been decimated, and it's been thanks largely to the efforts of the subcommittee and this committee that the program has been retained until now.

And we hope that the subcommittee and full committee will take a similar position this year, and that the Congress will see the wisdom of retaining this program, even though what we now have is only a skeleton of what there was there before in terms of authority.

If you look at the way in which the program has been administered since, for example, 1982, the year after the reconciliation legislation was adopted, you see that the certifications have been reduced. The program not only has suffered legislatively but it's also suffered administratively. And in fact the certifications, according to our records, in 1982 numbered only 15,000; 1983 it was somewhat better, 40,000; but then, in 1984, there were fewer than 30,000.

So you can see, if you compare that with earlier years, that the program has really diminished from what it was at an earlier time when it was meeting legitimate needs of people who had been thrown out of their jobs as a result of our more liberal trade policies.

We really do believe that the unemployment from trade policy is different, and this has been acknowledged by the Congress of the United States, first in the Trade Expansion Act and then in an extension in the Trade Act of 1974.

And so we believe that there is every justification in the world to continue this program, and in fact, if you take a look at specific conditions in certain industries, we think there may be more justification now for this program than there ever has been before.

In fiscal year 1984, total trade adjustment assistance costs were $56 million. About $21 million of that was spent on training, job search and relocation benefits, $35 million was used for the weekly unemployment benefits, the trade readjustment allowances—TRA, as they are called. This cost is almost insignificant, when we note that the value of imports of manufacturers' goods has risen from $132 billion to well over $200 billion in 1984.

Speaking of the auto industry specifically, employment in that industry remains still about 23 percent below the levels of 1978, in spite of improved sales. Eighteen big three auto plants remain closed. The U.S. automotive trade deficit has reached $34 billion and continues to grow. Auto industry profits may be up—and indeed they are, as everybody has read in recent days—but employment is still down. There are still 60,000 big three auto workers on layoff status today.

In addition, imports of auto component parts have increased greatly. Under the voluntary restraint agreement, the so-called VRA with Japan, auto imports from Japan have been limited to 1.85 million vehicles per year. That has actually been more like 2 million vehicles a year because of ways that vehicles coming into this country are not counted. And just yesterday, or the day before yesterday, the Cabinet Council indicated that its recommendation to the President would be that the voluntary restraint agreement be permitted to expire.

If this happens, we believe that there will be an initial surge of unemployment of about 200,000 jobs in the automobile industry, and there are people who believe that the number of imports coming into this country will increase to the point where they may reach as high as 2 million additional automobiles over a period of time.

The UAW supports, as a matter of fact, a multiyear extension of the voluntary restraint agreement to ensure continued industry stability and prevent even more deterioration in U.S. auto employment.

But if the VRA is not extended, the need for trade adjustment assistance, in our view, will be even greater, as thousands of U.S. workers in auto and auto-related industries lose their jobs due to increased imports.

The UAW estimates that imported Japanese cars could rise by an additional 1 million units, or perhaps even more, as I indicated a moment ago. And in the short run we anticipate that the job loss could be as high as 200,000.

Mr. Chairman, when you are looking at extending the program—and we hope this subcommittee will agree to do that and the full Ways and Means Committee also—we hope that you will also address some of the problems as you did in the last authorization legislation that passed this committee.

One of the most serious problems in the TAA program over the last few years, in our judgment, has been the administrative barriers imposed by the Reagan administration. Currently, the administration has balked in releasing appropriated funds for trade adjustment assistance training, and it seeks now to rescind $25 million of the $26 million authorized for training in the current fiscal year. This again demonstrates the need, as we have testified over the years in the past, for a consistent source of funding for the trade adjustment assistance programs.

The UAW supports proposals, as we have indicated before, for a separate trust fund financed through customs duties to prevent such administrative problems from recurring.

Second, and another aspect of the program that we think needs improvement, the coverage of the current trade adjustment assistance program is overly limited. The UAW urges Congress to ensure that workers displaced as a result of imports of component parts receive coverage to the same extent as workers displaced through imports of an entire products. Those workers who are involved in the making of component parts who are displaced as a result of imports are just as unemployed when they can't find work and are thrown out of their jobs as workers who are involved in the assembling of the final product.

Finally, we believe Congress should lengthen the time in which a certified worker can take to complete training. There are many valuable training programs that cannot be finished in the 52-week period.

Mr. Chairman, with these modifications, we believe the trade adjustment assistance program can fulfill the compact with workers established more than 20 years ago. We urge this subcommittee to provide sufficient budget authority for the trade adjustment assistance program to make this compact a reality.

Mr. Chairman, I would like to thank you once again for the opportunity to share our views with the subcommittee on this program, which we believe is so important.

Thank you.

[The prepared statement follows:]

STATEMENT OF DICK WARDEN, LEGISLATIVE DIRECTOR, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW)

Mr. Chairman, the UAW represents more than one million workers and their families in North America. We welcome this opportunity to testify before your Subcommittee on the 1986 budget for the trade adjustment assistance program. We appreciate the opportunity to present our views on this important subject.

The UAW supports continuation of the worker trade adjustment assistance (TAA) program under the Trade Act of 1974. This program has been an integral part of U.S. trade policy for more than 20 years. It represents a special covenant between the victims of trade policies and their government which has made and administered those policies. TAA should be reauthorized for a period of at least five years and receive sufficient budget authority to make this covenant a reality.

The primary goal of U.S. trade policy has been to increase commerce among nations of the world, thereby improving both opportunities for consumer choice, the market for exporting industries and the prospects for world peace. It is also recognized, however, that significant problems can flow from liberalized trade programs. Some domestic industries and workers are obviously going to be injured—possibly even destroyed—by increased imports.

Given the overall benefits to our society, Congress therefore provided two administrative forms of relief for those who may fall victim to trade policy. For industries and workers threatened with serious injury, an escape clause mechanism was established. Upon an injury showing the President may invoke marketing arrangements, quotas or tariffs to protect the domestic industry and its work force.

In addition, a system of adjustment assistance was created to target relief for individual workers and employers. The TAA program avoids the international repercussions which necessarily accompany escape clause remedies and eases the adverse impact of imports on affected firms and workers.

For workers certified as displaced by imports, the TAA program provides training, job search and relocation assistance and benefits which supplement unemployment insurance. Employers are to receive assistance and low interest loans to become more competitive or develop new product lines. Thus, TAA is designed so that both workers and employers should receive temporary federal assistance to help adjust and find new areas of endeavor.

This system was established under the original Trade Expansion Act of 1962 and improved upon under the Trade Act of 1974. In 1981, under the Omnibus Budget Reconciliation Act, the income maintenance aspects of the worker adjustment assistance program were substantially slashed in exchange for a claimed improvement in training benefits. These 1981 cutbacks, coupled with a low rate of petition approvals, have reduced the program to a mere skeleton. In 1984, less than 30,000 workers were certified. In 1983, the figure was 40,000. In the 1982 recession, only 15,000 workers were certified.

The Reagan Administration's budget now seeks to terminate the program, thereby eliminating one more safety net from the domestic sector. We believe the Administration's position is contrary to our national interest, because trade adjustment assistance fulfills a central role in our overall trade policy, a role not met by any other governmental program. TAA must be reauthorized at adequate funding levels to meet the continuing needs of workers displaced from their jobs by imports.

TAA REPRESENTS A SPECIAL COVENANT BETWEEN THE VICTIMS OF U.S. TRADE POLICY AND THEIR GOVERNMENT

TAA remains an integral part of a U.S. trade policy. The underlying rationale for providing targeted benefits to the victims of federal trade programs has previously been stated by Congress.

The program is premised upon the belief that trade-related unemployment and market disruption may differ somewhat in nature from that arising from other causes, and upon the belief that such trade-related imports, resulting from a Federal policy of encouraging increased foreign trade for the benefit of the country should not be borne unaided by particular segments of U.S. industry and labor.[1]

The unemployed victims of trade policies are different from other unemployed because their unemployment is directly traceable to changes in trade policies. Congress acknowledged this fact when it passed the TAA program in 1962.

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[1] Staff Data Materials Relating to Trade Adjustment Assistance Program Prepared for use of Subcommittee on International Trade, Staff of Senate Committee on Finance (96th Congress, 1st Session, 1979).

This special convenant between Congress and labor has existed for more than 20 years. Congress has repeatedly promised American workers that federal programs for expanding trade would occur within a system of assistance for these workers directly displaced by these trade policies. It is difficult to believe that Congress would renege on that bargain now. The nation has enjoyed the benefits of liberalized trade policies; it would be most unfair to tell its current and future victims that their promised assistance is to be withdrawn. Workers displaced by imports rightfully look to their government for assistance when they are unemployed as a result of the policies of that government.

Absent a viable TAA program, we can only warn Congress that the current displeasure over this country's trade policies will grow even faster.

THE TAA PROGRAM CONTINUES TO SERVE THE NEEDS OF WORKERS DISPLACED BY IMPORTS

In FY 1984, total TAA costs were under $56 million; about $21 million was spent on training, job search, and relocation benefits; $35 million was used for the weekly unemployment benefits—trade readjustment allowances (TRA). This cost is almost insignificant when we note that the value of imports of manufactured goods has risen from $132 billion in 1980 to $232 billion in 1984. In light of this 75 percent growth in imports, it is clear that recent low program outlays in no way reflect a reduced demand or need for adjustment assistance.

The Department of Labor conducted an extensive survey of 5.1 million workers displaced from their jobs from January 1979 to January 1984. The results of this survey demonstrate a continuing need for TAA. Two and one-half million workers were displaced by plant closings or relocations during this period. Nearly half of the displaced workers came from the manufacturing sector of the economy, including nearly 225,000 in the automobile industry alone. One-fourth of all displaced workers, that is, 1.3 million individuals, are still unemployed and looking for work. Another 15 percent of displaced workers have dropped out of the labor force altogether.

Auto industry employment remains 23 percent below 1978 levels despite improved sales. Eighteen Big Three auto plants remain closed. The U.S. automotive trade deficit has reached $34 billion and continues to grow. Auto industry profits may be up, but employment is still down. There are still 60,000 Big Three auto workers on lay off status today. In addition, imports of auto component parts has increased greatly. Under the Voluntary Restraint Agreement (VRA) with Japan, Japanese auto imports have been limited to a 1.85 million vehicles per year. The UAW supports a multi-year extension of the VRA to ensure continued industry stability and prevent even more deterioration in U.S. auto employment. However, if the VRA is not extended, the need for TAA will be even more serious as thousands of U.S. workers in auto and auto-related industries lose their jobs due to increased imports. The UAW estimates that imported Japanese cars could rise by an additional one million units. That would cost 200,000 jobs at a time when the safety net of social welfare programs has been shredded beyond repair.

The Administration's budget proposal views Title III of the Jobs Training and Partnership Act (JTPA) as an alternative to TAA. In the UAW's view, the TAA program is not duplicative of the JTPA dislocated worker program. The JTPA dislocated worker program has serious inadequacies when compared to TAA. First, the program simply does not serve enough of those in need. Despite studies showing that there are millions of dislocated workers across the country, only about 80,000 workers will be reached in the current JTPA dislocated worker program year. The Administration budget proposes a further recission of $120 million in the Title III budget authority, making this program only more inadequate to serve the needs of dislocated workers. Early studies of JTPA indicate that, in general, only the most qualified and easiest to place workers have been receiving the majority of JTPA attention.

Further, because of restrictions on stipends and allowances, many workers are prevented from participating in programs because they lack the financial resources to support themselves and their families while in training. These restrictions also tilt training programs in the direction of short-term training.

The intensive, more extended training assistance of TAA contrasts favorably with the short-term training and placement in low paying jobs in programs financed under JTPA. The UAW supports a training program long enough in duration to permit real skill development necessary to qualify workers for jobs which support a decent standard of living. This program is TAA, not the JTPA dislocated worker program.

THE TAA PROGRAM SHOULD HAVE A BUDGET ADEQUATE TO FUND NEEDED CHANGES

While the question before the Subcommittee today is focused on the 1986 budget, in making the proper budget determination the UAW believes that the shortcomings of present TAA program must be considered.

One of the most serious problems in the TAA program over the last few years has been the administrative barriers imposed by the Reagan Administration. Currently, the Administration has balked in releasing appropriated funds for TAA training and seeks to rescind $25 million of the $26 million authorized for training in the current fiscal year. This again demonstrates the need for a consistent source of funding for TAA programs. The UAW supports proposals for a separate trust fund financed through custom duties to prevent such administrative problems from recurring and to eliminate further uncertainty about program funding.

Second, the coverage of the current TAA program is overly limited. The UAW urges Congress to insure that workers displaced as a result of imports of component parts receive coverage to the same extent as workers displaced through imports of an entire product. In addition, workers whose jobs are lost when their employers move overseas should also be covered by TAA. Their unemployment is directly related to free trade policies, even if the new overseas operation does not directly or immediately import into the U.S. the products it makes. Finally, Congress should lengthen the time in which a certified worker can take and complete training. There are many valuable training programs that cannot be finished in the 52 week period.

Mr. Chairman, with these important modifications, the TAA program can fulfill the covenant with workers established more than 20 years ago. The UAW urges the Subcommittee to provide sufficient budget authority for TAA to make this covenant a reality.

Thank you.

Mr. PEASE. Thank you very much, Mr. Warden. Mr. Powderly?

STATEMENT OF JOHN POWDERLY, LEGISLATIVE REPRESENTATIVE, UNITED STEEL WORKERS OF AMERICA

Mr. POWDERLY. Thank you, Mr. Chairman. My name is John Powderly from the United Steel Workers of America, a labor representative.

I thank you today for allowing us to testify on behalf of the 87,000 steelworkers who are currently laid off. Temporary layoffs generated by swings in the business cycle have been common in the steel industry. Many steelworkers are now faced for the first time with the reality of having to find a new job in a different industry. Skills which these workers possess are not in big demand, and retraining for new skills and jobs is necessary if they are to become reemployed.

The attached graph, Mr. Chairman, members of the committee, shows the precipitous decline in steel employment over the last 4 years. Hourly employment has dropped from 320,000 at the beginning of 1980 to 156,000 at the end of 1984. As a basis of comparison, during the 1975–79 period, average employment in the steel industry was 453,000 persons.

In 1984, direct steel imports accounted for 26.6 percent of the domestic market. Market penetration during the second half of the year surged to almost 30 percent.

If the voluntary restrain agreement on automobiles, as our brother from the Auto Workers just mentioned—on imports from Japan should expire, the surge in those increased imports would drastically threaten the recovery of the domestic automobile industry and consequently further exacerbate the steel industry's problems. Automobiles, commercial vehicles and automotive component parts account for 62 percent of the indirect steel imports.

Last year, the President commissioned the Steel Advisory Committee, a tripartite forum of company, union, and governmental agencies, to scrutinize the problems of the steel industry and to make recommendations for change. One of the committee's recommendations concluded that the size and nature of the steel unemployment is such as to require national funding of retraining and job search activities to serve those whose connections to the industry are severed permanently.

A further recommendation of that committee stated that the size and characteristics of the steel industry's problems justify the establishment of an ad hoc committee that will act as an industry oversight group to enhance the administration of a model steel adjustment program.

Our union has embarked upon a systematic response to provide a comprehensive readjustment program for those whose jobs have been permanently lost.

Dislocated workers centers have been established at each of the United States Steel facilities which closed in 1984. And we are currently in discussion with other companies under our contractual agreement to develop a similar response.

Each center operates under joint authority of company and union personnel and offers a variety of services, which include testing and assessment, job search workshops and job clubs, preparation of résumés, job development, counseling, social service referrals, education and retraining, and job placement, hopefully.

Funding for these centers comes from the corporation and a matching grant through title III of the Job Training Partnership Act. Moreover, a new source of funds for retraining and job placement comes from the recently enacted Steel Stabilization Act which requires each major steel producer to set aside 1 percent of its net cash flow over the next 5 years for those purposes.

Mr. Chairman, you know, of course, our appreciation for the work, the hard work, that you did to make sure that that was included in that bill.

Inasmuch as these are private funds flowing from the Steel Stabilization Act, they can be used as matching funds for a larger amount of money drawn down from the Job Training and Partnership Act.

However, most of those participating in the program are eligible for trade adjustment assistance and therefore are able to receive up to 52 weeks of benefits to provide for their families while they are making this job search.

These workers can also apply for training under the TRA program. The Pennsylvania Employment and Training Service has advised us just recently that there are currently over 3,000 applications for TRA training pending from the western Pennsylvania area alone.

Our union's aim is to establish dislocated worker centers in every steel community with permanently laid-off workers. We believe that with private funds flowing from the Steel Stabilization Act and coupled with the public programs of JTPA and TRA, these workers can make the necessary readjustment to meaningful employment. Each of the various threads is essential to the whole cloth. We urge this committee to request budget authority for the continuation of the TRA program. We further urge the committee to insist that money for retraining under the current fiscal appropriation be made available in those areas where they are needed.

Mr. Chairman, I further thank you for allowing us to come here, and thank you again for putting some separation between me and the Deputy Secretary of Labor for Employment and Training. I am afraid if I had to testify an hour ago, I simply would not have been able to do it. I have been appointed by the president to a task force on dislocated workers, and during 1984 I went from community to community and looked at the tragic consequences of permanent unemployment for people from third generations who have gone into those mills and worked hard. Call these programs "disincentives to work"—it just, Mr. Chairman, and members of this committee—I invite him to go into these communities, have a beer with some people who came on the midnight shift with the wind coming off Lake Michigan and working on the midnight shift till the morning, doing it for 25 or 30 years of their lives, expecting to transfer these jobs over to their children and their grandchildren.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF JOHN POWDERLY, LEGISLATIVE REPRESENTATIVE, UNITED STEEL WORKERS OF AMERICA

Temporary layoffs generated by swings in the business cycle have been common in the steel industry, but many steel workers are now faced, for the first time, with the reality of having to find a new job in a different industry. Skills which these workers possess are not in big demand and retraining for new skills and jobs is necessary if they are to become reemployed. The attached graph shows the precipitous decline in steel employment over the last 4 years. Hourly employment has dropped from 320,000 at the beginning of 1980 to 156,000 at the end of 1984. As a basis of comparison, during the 1975–79 period, average employment in the industry was [illegible],000 persons.

In 1984, direct steel imports accounted for 26.6% of the domestic market. Market penetration during the second half of last year surged to almost 30%.

If the Voluntary Restraint Agreement on automobile imports from Japan should expire, the surge in those increased imports would drastically threaten the recovery of the domestic auto industry and, consequently, further exacerbate the steel industry's problems. Automobiles, commercial vehicles and automotive component parts account for 62% of indirect steel imports.

Last year, the President commissioned the Steel Advisory Committee, a tripartite forum of company, union and governmental agencies, to scrutinize the problems of the steel industry and to make recommendations for change. One of the committee's recommendations concluded that the size and nature of the steel unemployment is such as to require national funding of retraining and job search activities to serve those whose connections to the industry are severed permanently.

A further recommendation of that committee stated that the size and characteristics of the steel industry's problems justify the establishment of an *ad hoc* committee that will act as an industry oversight group to enhance the administration of a model steel adjustment program.

Our union has embarked on a systematic response to provide a comprehensive readjustment program for those whose jobs have been permanently lost.

Dislocated Workers Centers have been established at each of the U.S. Steel facilities which closed in 1984; and we are currently in discussions with the other companies under our contractual agreement to develop a similar response.

Each center operates under joint authority of company and union personnel and offers a variety of services which include:

Testing and Assessment,
Job Search Workshops and Job Clubs,
Resume Preparation,
Job Development,
Counseling,

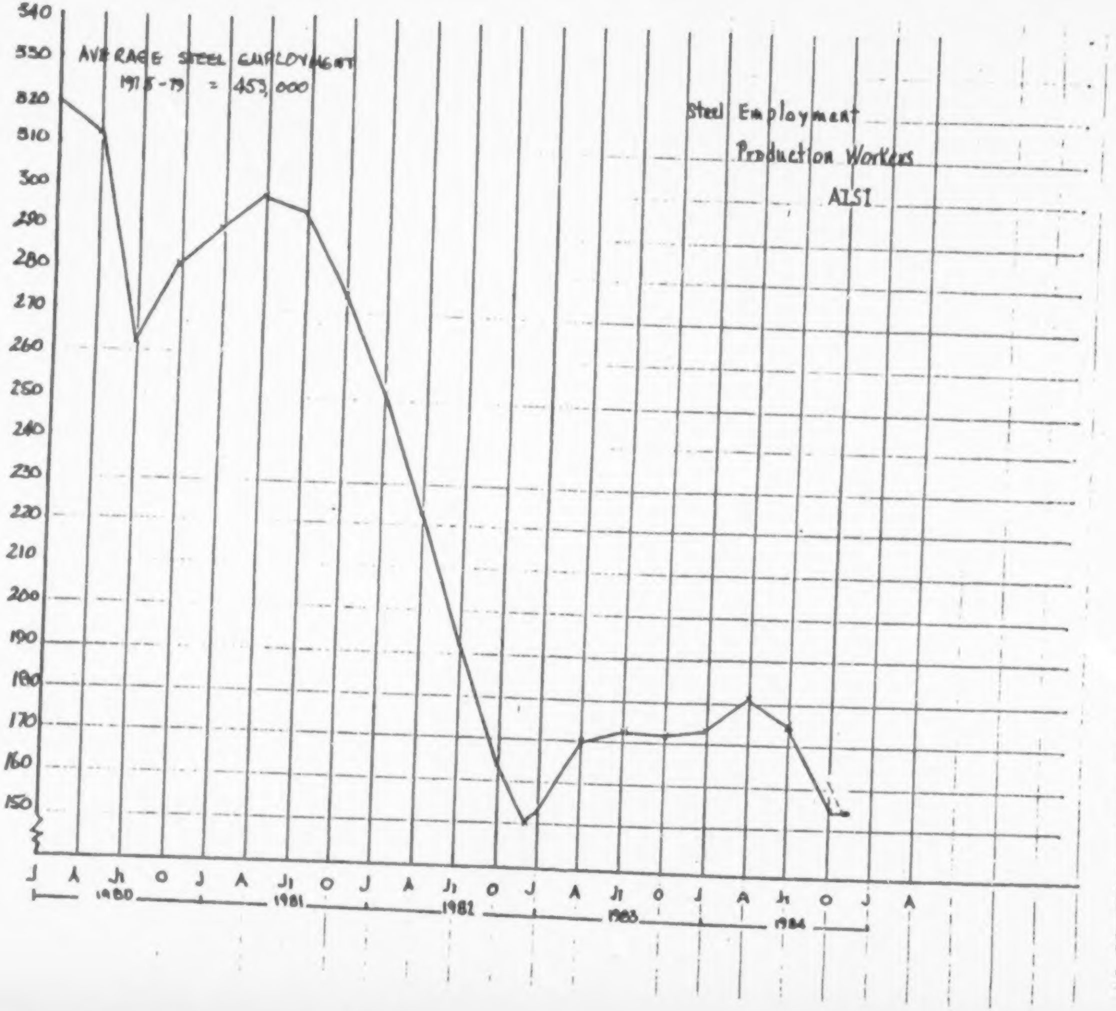
Social Service Referrals,
Education and Retraining, and
Job Placement.

Funding for these centers comes from the corporation and a matching grant through Title III of the Job Training Partnership Act. Moreover, a new source of funds for retraining and job placement comes from the recently enacted Steel Stabilization Act which requires each major steel producer to set aside 1% of its net cash flow over the next 5 years for those purposes. Inasmuch as these are private, they can be used as matching funds for Job Training Partnership Act.

However, most of those participating in the program are eligible for Trade Adjustment Assistance and, therefore, receive up to 52 weeks of benefits to provide for their families while they are making their job search.

These workers can also apply for training under the TRA program. The Pennsylvania Employment and Training Service has advised us that there are currently over 3,000 applications for TRA training pending from the Western Pennsylvania area.

Our union's aim is to establish dislocated worker centers in every steel community with permanently laid off workers. We believe that with private funds flowing from the Steel Stabilization Act and coupled with the public programs of JTPA and TRA, these workers can make the necessary readjustment to meaningful employment. Each of the various threads is essential to the whole cloth. We urge this Committee to request budget authority for the continuation of the TRA Program. We further urge the Committee to insist that money for retraining under the current fiscal appropriation be made available.


Steel Employment
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AVERAGE STEEL EMPLOYMENT
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Mr. PEASE. Thank you, Mr. Powderly, for your testimony. Mr. Williams, you are the last; you have had the longest wait of all. We appreciate your patience and look forward to your testimony.

STATEMENT OF HAROLD W. WILLIAMS, PRESIDENT, INDUSTRIAL POLICY COUNCIL

Mr. WILLIAMS. Mr. Chairman, it has been my role I think for the past 3 years to wind up these hearings, and I welcome the opportunity again to be here. I have a prepared statement which I will not read, but I would appreciate your including it in the record.

Mr. PEASE. We will so do.

Mr. WILLIAMS. I will make a few brief remarks, summarizing it, and adding to it.

I want again to thank this committee for its support in the past, for maintaining the program of trade adjustment assistance for firms and industries. This is a small but important program which we think deserves your support. We ask again this year that you ignore the recommendations of the administration and recommend a budget authorization, as you did last year, of $30 million for this program.

For the past 3 years I have generally been accompanied here by businessmen who have testified out of their personal experience on the effectiveness of the program of TAA for firms.

In the interest of saving time, we have not asked any businessmen to accompany us this year. But I understand that a number of them have written to you and to your committee, and they have made their views known.

This being so, you may well ask how does this square with the Department of Commerce testimony today that the program is ineffective and less than 5 percent of the firms have had success with the program? I cannot explain the difference at this time, because I haven't seen the report of the inspector general. I would ask that the committee not act on this testimony until they have actually seen the report and we can look at the methodology.

But I suggest that there is something wrong with their sample—there would have to be. And I would guess, if I may use an old joke, that this is the kind of research that was taken the way a drunk uses a lamppost, not for illumination, but for support.

There is one distressing part of this IG study which I want to bring to your attention, and that is that a number of the businesses that have testified here in the past have been singled out by the IG for visits, and in one case in particular this businessman felt that he had been rather intimidated. I asked him if he would tell this to the committee, and he said no, because he is the recipient of a loan from the Department of Commerce, and he is well aware of the fact that when an auditor comes in and looks over the books with a fine tooth comb, he can always find something. And he is just afraid that he doesn't want to get the IG looking over his books that way.

So we have a little bit of intimidation here which I think the committee ought to keep in mind and take a look at.

As you know, Mr. Chairman, in the past I have argued for trade adjustment assistance for both workers, firms, and industries as an alternative to broader relief. This is an argument that is more true today than it ever has been, and it has received a great deal of public support.

Peter Navarro, who has written a book called The Money Game, attacks protectionism very, very virgorously, but he also says that one of the problems that conservatives face when they attack protectionism is that they don't support adjustment. And he comes out for adjustment along with free trade.

Robert Lawrence has just come out with a book—he is one of the Brooking Institute associates—again arguing very, very strongly for free trade, but saying that we can't have free trade unless we also have adjustment—we have got to have adjustment to go with it.

Just last month there was a lead editorial in the New York Times that made the same point.

Now, last year Mr. Frenzel and I had a little discussion here in which he said how can you say that this program reduces pressures for protectionism when we are facing so many, many pressures for protectionism?

Obviously, if your are an impacted worker or if your are an impacted business, and if you are given your choice between protection and adjustment, you are going to ask for protection—it's a lot easier, no question about it.

But if your are an obsrver who is not impacted, if you are someone looking on, a consumer, and if you are given your choice between sitting by and watching a lot of people have their businesses ruined and their lives ruined and a little bit of protection, you might say, well, maybe we had better have protection, because we can't stand to have this.

So the idea is to say to those people: "No, we won't give so much protection, but we will have an adjustment program, because that's the sensible way to deal with a very serious problem."

In effect, what the Department of Commerce and the Department of Labor are saying instead to impacted workers and impacted firms is—in the words of a New York Daily News headline—"Drop Dead."

Well, I don't think that this committee wants to give that message to the impacted workers and the impacted firms of this country, and I don't think the Congress wants to give that message, too. We hope very much that you will send a signal to this administration that we do have an adjustment program, and we will stand by to help these people who have been hurt.

Thank you.

[The prepared statement follows:]

STATEMENT OF HAROLD W. WILLIAMS, PRESIDENT, INDUSTRIAL POLICY COUNCIL

SUMMARY

The Industrial Policy Council requests inclusion of $30,000,000 in budget authorization for trade adjustment assistance for firms and industries in fiscal year 1986. The progran is working. It is successful. It returns far more tax dollars to the U.S. Treasury than it costs.

We would not have the benefits of free trade today without the concept of trade adjustment assistance. If we now abandon it, we will open the doors to renewed protectionism.

Let us do what is right for the many but let us not neglect what is needed by the few as a result of our help for the many.

The major impact of TAA for firms and industries comes as a result of the activities of the trade adjusment assistance centers (TAAC's) and the grants for industries. Despite OMB claims to the contrary, technical assistance helps many firms, even those that do not get as far as implementation assitance.

Grants for industries have also been successful, as evidenced by Congressional action last year to earmark and additional $3,500,000 for the tailored clothing industry program which was started by a TAA grant.

There is increased support for TAA from many who advocate maintaining borders that are open to foreign goods. Free trade creates losers as well as winners. We need to take care of the losers.

Mr. Chairman, I represent the Industrial Policy Council, and organization that has been established to study and support policies and programs that will keep the nation's industries strong and competitive. I am appearing before you today specifically to urge your continued support for a program that has made a significant contribution to the maintenance of a competitive industrial structure in the United States—trade adjustment assistance for firms and industries. We ask that you take the same action you took last year and recommend the inclusion of $30,000,000 in the budget authorization for this program in fiscal year 1986.

By comparison with most other programs with which your subcommittee must deal, trade adjustment assistance (TAA) for firms and industries is small and likely to be overlooked. Many people think of TAA only in terms of the program for workers, and they are apt to forget that there is also a program to help firms and industries meet the competition of imports and adjust to the new conditions they must face as a consequence of the expansion of trade. My purpose here today is to remind you that there is as a program that helps firms and industries adjust. The program is working. It is successful. And it returns far more tax dollars to the U.S. Treasury than it costs. Even more significantly, it enables us to withstand pressures for protectionism that could explode into an all-out international global trade war.

Trade adjustment assistance owes its conception to the proposition that since the nation as a whole benefits from opening our borders to foreign products, the nation as a whole must help pay for the adjustment of those who not only do not benefit from open borders, but who actually are harmed by the competition of foreign goods in domestic markets. As far back as 1962, the trade adjustment assistance program was establsihed as a *quid pro quo* to gain support for the Kennedy Round of tariff reductions.

Since that time, our nation and the world as whole have benefited greatly from the expansion of world trade made possible by the agreements that were then reached and by subsequent rounds of trade negotiations. But we would never have had those benefits had we not embraced the concept of trade adjustment assistance. I greatly fear that if we now abandon that concept and folow Reagan Administration recommendations, we will be leaving ourselves and the world open to renewed protectionism and the loss of the benefits that free trade has brought to us and the world.

I am aware that there are some who question the value of trade adjustment assistance in ameliorating the pressures for increased protectionism. They say that we now have trade adjustment assistance, and we still are facing increased protectionist pressures every day. Our answer to that argument is that it is a matter of degree. If we had perfect trade adjustment assistance we would have no protectionist pressure. To the extent that our existing trade adjustment assistance programs are imperfect, we continue to hear petitions for border relief, and these are partially successful. But in the main we have been able to keep our borders relatively open to imports. If we do away with our existing programs we can expect a corresponding success for measures that will close our borders to foreign goods.

If I were a legislator who believed in free trade and wanted to vote for free trade, I would feel a lot more comfortable having voted for trade adjustment assitance. At least then I could face my constituents and say that while I voted for what would best benefit the nation as a whole, I also voted for what would help those who had not been able to adjust on their own to the competition from overseas.

Let us do what is right for the many, but let us not neglect what is needed by the few as a result of our help for the many.

The Administration argues that trade adjustment assistance for firms and industries ought to be terminated because it has been ineffective. In the past the Office of Management and Budget (OMB) has used the argument that many of the trade adjustment assitance loans are in default as proof that the businesses have not been helped. More recently, OMB is claiming that technical assistance that implements an adjustment plan goes to relatively few firms, and is thereby excessively expensive. It appears that OMB is more interested in finding a justification for a position that has already been fixed than they are in understanding the program.

First, one should know that the poor loan default record for trade adjustment assistance goes back to loans that were made many years ago under policies that have long since been abandoned. Relatively few loans are made today, and these have been more successful, but they account for only a small part of the program's impact.

The major impact of the trade adjustment assistance program today stems from two key aspects of the program—the trade adjustment assistance centers and the grants for industry adjustment programs.

Trade adjustment assistance centers are somewhat unique. Although they are funded largely by trade adjustment assistance funds, they are not instrumentalities of the Federal Government. Some are operated by universities. Others are operated by independent nonprofit organizations. At least one is operated by a State government. There are thirteen of these organizations spotted around the country in strategic locations based upon geography as well as upon concentrations of trade-impacted firms. They provide information to firms about their eligibility for TAA, and once the firms are eligible they provide technical assistance, through their own staff resources, as well as through the resources of private consulting firms that have whatever special expertise is needed.

These trade adjustment assistance centers, or TAAC's as they are called, basically provide four kinds of technical assistance.

First, they help firms with the red tape involved in getting certified. This is relatively inexpensive and provided at no charge. The firms pay at least 25 percent of all additional costs. Next they provide a diagnostic survey to help firms discover what their problems are and whether TAA help is appropriate. Many firms drop out after receiving the results of such a survey, largely because trade adjustment assistance is not appropriate. In many cases, their financial condition is so bad that there is no chance of getting financial aid. In other cases, the diagnostic survey points the way to other solutions such as merger, discontinuing certain lines, or changing management. it is important for all of us to recognize that the assistance provided by the diagnostic survey is valuable help, even if no further aid is provided.

The third step in the assistance provided by trade ajustment assistance centers is help in preparing the adjustment plan. This is a key part of technical assistance and perhaps the most important aspect of the entire TAA program for firms. At this stage the consultants and the firm look at the problem and jointly determine what needs to be changed to solve it. In many cases, the adjustment plan points to solutions that require no further help under the program. These solutions may involve refinancing of private loans or new loans from non-TAA sources; they may involve restructuring of the company or changes in product lines, all of which can be accomplished without further TAA help.

The final step is implementation technical assistance which may involve extensive consulting help involving market studies, engineering, product development, management studies and the like.

It is important to keep in mind that all of the technical assistance provided by the TAAC's, not just implementation assistance, helps firms adjust to foreign competition.

A second major area of accomplishment for the TAA program for firms and industries rests in the technical assistance grants which have gone to industry groups to help with an entire industry's research program. In the past you have heard testimony about the industry program as it related to the footwear industry, the apparel industry, the handbag industry, textile machinery.

A few months ago, the Administration proudly joined with representatives of the tailored clothing industry and the union that represents its workers to hail their accomplishments in developing new automated machinery that will help the men's clothing industry better withstand the pressure of imports. What the Administration did not say was that 50 percent of the cost of the research that enabled this achievement was paid for by TAA grants. So impressive were the achievements of this program that Congress, under an initiative from the Senate, earmarked an additional $3,500,000 for the program in its fiscal 1985 appropriations for the Department of Commerce.

TAA has helped a wide range of industries through its program of grants to industries that have been impacted by foreign competition. In addition to the ones mentioned above, grants have gone to luggage and leather goods manufacturers, the hand tool industry, sporting goods manufacturers, mushroom growers, hardwood dimension manufacturers, the iron castings society, the national machine tool builders association, the electronics association, and others.

These grants are significant in part because they involve industries in helping themselves to adjust to foreign competition as opposed to simply appealing to the Government for border relief. It is not that these industries do not ask for border relief as well, but that trade adjustment assistance is an alternative. We hope that eventually Congress will pass legislation that requires industries seeking border relief to prepare an adjustment plan as a condition of such relief. Legislation to that effect was introduced in the past Congress and will be introduced in this Congress. When it is passed, as it undoubtedly will some day, our experience with TAA grants to industries will provide a solid foundation for making such a requirement effective.

In past years, Mr. Chairman, our testimony has included witnesses representing firms that have been helped by TAA. This year, in the interest of saving the subcommittee's time, we are limiting our testimony to my statement. We have asked many of the firms that have been helped to write to you directly with the stories of how TAA has aided in their adjustment. No doubt you have already heard from some. I hope that you will be able to include their communications in the record.

The letters you are receiving from so many different types of firms that are located in so many different parts of the country testify to the fact that this program is working. It works, despite difficult conditions it faces as a result of the strong dollar and sometimes lukewarm management from its parents in the International Trade Administration. It could be even more effective with more dollars and stronger support from its administrators, but we are realistic enough to recognize that there is little chance for additional money in this period of concern for large budget deficits.

At a different time and in a different climate, perhaps the Congress might want to consider supporting an effective trade adjustment assistance program, for industries, firms, workers and communities with an ample budget supported by a surcharge on manufactured imports. If it is true that opening our borders to foreign goods keeps prices down in our markets and benefits consumers to the extent of hundreds of billions of dollars, then perhaps all the consumers who benefit might not mind paying an extra five percent or so to help the firms, workers and communities whose livelihoods have been injured by those same imports. A five percent import surcharge on manufactured imports would produce approximately $10 billion, more than enough to do a really first class job of helping workers, firms and industries adjust.

Perhaps we need to negotiate some kind of formula in GATT which permits imposition of an import surcharge whenever a country's currency increases in value to a point that becomes unmanageable or impossible to correct.

If I come before you today, Mr. Chairman, in the name of free trade suggesting an import surcharge, it is only because we are rapidly approaching a situation that is intolerable. If politics is the art of the possible, then we need to look around and see what is possible.

It is not possible to keep our borders relatively free without taking care of those who are being harmed by the unceasing and increasing flow of foreign goods into the United States. It is not possible to pay for the kind of adjustment program that can really work under present budgetary limitations. What may be possible is to find a middle ground that will raise sufficient money for adjustment without affecting the deficit, while at the same time keeping our borders relatively free and compensating somewhat for the difficulties a strong dollar presents to businesses that must compete with foreign firms. A modest import surcharge on manufactured goods meets these tests, and I commend it to your consideration.

Mr. Chairman, there is increasing support for adjustment assistance as a legitimate response to cries for increased protectionism. In his book, "The Policy Game", author Peter Navarro claims that protection costs the average American family about $1,000 more per year for the goods they buy. But he goes on to say that conservative free trade policies neglect the legitimate plight of those who are displaced by import competition. He argues for programs to assist in job retraining and in finding new jobs.

Brookings Institution author Robert Z. Lawrence in his new book, "Can America Compete", argues for a trade policy that is more open, but he insists that along with that we need new improved structural adjustment programs for those who will be injured as a result. And only last month a lead editorial in the New York Times stated that those who understand the value of free trade have a political and moral duty to try spreading the pain more equitably. "Free trade", says the Times, "creates losers as well as winners."

If we intend to keep on winning, let's make sure that we take care of the losers. For this subcommittee, that means nothing less than continued support for trade adjustment assistance for workers, firms and industries. We urge budget authorizations for fiscal 1986 that are at least equal to those you recommended for the present fiscal year.

Mr. **Pease**. Thank you very much, Mr. Williams. We appreciate your testimony.

If I might start with you, Mr. Williams, I was pleased to hear you question the validity of the Inspector General's report, and I must say that I am very distressed to hear that the Commerce Department may be intimidating people who come forward and try to present testimony that the committee could use to help draft Federal legislation.

Could you describe for me and explain what the Industrial Policy Council is that you represent?

Mr. **Williams**. The Industrial Policy Council is an organization of individuals and associations who are interested in fostering a discussion and public understanding of the need to maintain a strong industry in this country and a strong competitive posture against foreign imports.

Mr. **Pease**. You have, I gather, pursuant to that, rather broad interests. TAA just happens to be one of them?

Mr. **Williams**. That is correct, sir.

Mr. **Pease**. Could you comment for us on the recent experience with TAA for firms as between the Loan Program and the Technical Assistance Program?

Mr. **Williams**. Well, we think that the technical assistance program has been more effective lately. The loan program has dried up to a very, very small amount of money, and it has been administered with a great deal of hesitation. Even after loans are approved, it takes months to get through to closing because there aren't enough lawyers around assigned to the program to do all the work, so that it has gradually lost its importance in the program. The real significance is in the Technical Assistance Program.

Mr. **Pease**. In talking with companies that make use of TAA, have you had any experience with them to suggest that the Commerce Department is deliberately administering the program in such a way as to discourage its success?

Mr. **Williams**. No, I don't think that I can say that. I think that there is a general disinterest on the part of the International Trade Administration in the program. As you know, since I left in 1982, they are now on their third Deputy Assistant Secretary, it is not looked upon as a career-advancement place in the Department of Commerce. The International Trade Administration has many, many other interests that seem much more important to the Secretary and the Under Secretary.

So I would say that it is misplaced in its present location.

Mr. **Pease**. Thank you. Well, Mr. Warden and Mr. Powderly, I don't really have any questions for you. We have talked about TAA and TRA many times, and I certainly share your interest in the program and concern about it. And, Mr. Powderly, I was particularly impressed with the comments that you made about steelworkers, because Monday this week I visited the United States Steel plant in Lorain, OH. And you are entirely correct, there are people in that steel mill in their third generation, and they are proud people, and there are some 4,000 people fewer now than there were 3 years ago working in that plant. That plant will never get back up to full employment again.

But it's beyond argument, I think, that many of the people who are unemployed are unemployed because of steel imports, because of our basic policies of free trade in this country. The auto industry has benefited from lower prices for steel, as a result—a lot of other domestic industries have, maybe the country as a whole has.

But certainly the steelworkers themselves have lost jobs as a result of that, and it doesn't seem to be unreasonable at all that the Nation's Government would help them readjust.

And the idea that Mr. O'Keefe advances, that providing any kind of help like that is a disincentive for them to go out and make the necessary adjustments, I think is extremely cruel and really shocking to me, as I know it was to you.

I don't have any questions.

Mr. Powderly. Mr. Chairman, if I could respond—Deputy Secretary O'Keefe was responsible for preparing a study as a result of the 201 clause, and he could have referred to some of the statistics that he produced in that study. There is a measure of number of jobseekers to job openings, and they have published it in each of the steel communities that was affected under the 201 clause. In Gary and Hammond, there are 96.1 persons chasing each job opening; in Detroit it's 59.8, in Toledo it's 138, in Youngstown, OH, 171.3 people are looking for the one available job opening. That is the ratio.

You could disparage a program and probably destroy it without looking at some of the reasons why these things are true. A person gets a training opportunity, and he's recalled by his company temporarily. He has to make the choice between whether he is going to go back to that employment or whether he is going to continue in that training opportunity. When the final chance comes, when the plant finally closes down, some of these workers who established an eligibility for TRA at the beginning of a very short period of unemployment, 2 years later, when the plant actually closes and they would be able to get the benefits in a rational way, supported by the weeks of cash benefits, go into a training program, only discover that they went through a 210-day deadline that makes them ineligible for the training.

We brought this to the Secretary's attention at the Steel Advisory Committee, and he had published, as a result of our request—a revised pamphlet: "If imports cost your job, you should apply for trade adjustment assistance." The pamphlet does not tell you that if you go through a 210-day deadline, you become ineligible for a training program; there is nothing in the book that tells you there are hurdles, complex hurdles to getting the benefits. This pamphlet is published by the Department that is not fond of the program, and so I think it is just about worthless. If you told Edwin Moses that he was going to run a 400-meter run, you better tell him there are going to be some hurdles out there, or he isn't going to win the race.

Unemployed workers going to this Labor Department are like chickens with broken legs going to Colonel Sanders for help.

Mr. **Pease**. Thank you, Mr. Powderly. Mr. Frenzel, did you have any questions?

Mr. **Frenzel**. I want to thank the witnesses for their perseverance—it has been a long day. And I thank Mr. Williams for answering my annual question before I raise it. He gave a lot better answer this year than he did last year.

Mr. **Williams**. I had a year to think about it, Mr. Frenzel.

Mr. **Frenzel**. It gives me no comfort, because I can't hold your fellow witnesses at bay. They cannot hold back their appetite for protection; they have to represent their people. And it wouldn't make any difference if we doubled it or tripled it or quintupled it—their people still want the old jobs that they had, that they were comfortable with—and I can't blame them for wanting those jobs. We all have those kinds of urges.

And so it really doesn't help us at all.

In 1974 some genius thought we could buy a free trade policy through TAA, and obviously some genius long before that thought the same thing. I don't think it does. I guess I would like to see a policy that treated unemployment the same way. The person who is out of a job—it's a disaster for this country, no matter how that person got out of a job. We ought to have a program that takes care of everybody. Unfortunately, we don't. We treat things in different ways—but, really, the question I wanted to ask you— Comrade Pease always cons me into some TAA later on anyway for employees—but I would like to talk about firms, particularly the loans.

We have precious few success stories. And as we look at Commerce's recommendations for this year, we have gone back and talked to some people who have been in saying keep the program alive, I was in it, and so on. You don't find those people any more.

If you think that that is a good program, somebody has got to show us more than one or two companies which got some technical assistance and got them launched in another direction, or even the same direction, or had a loan and it worked out. We are past the part of raising hell with Commerce for demanding that the individuals personally sign off on the loans--we corrected those kinds of things. We are precious short of success stories.

Mr. **Williams**. I beg to differ with you, Mr. Frenzel, we have got a lot of success stories.

Mr. **Frenzel**. I'd really like it if you would address a letter for inclusion in this hearing record in which you mention some of the firm names that you knew of that were successful in that, so that we could at our leisure discuss the matter.

Mr. **Williams**. We would be delighted. And I do know that the chairman has received quite a number of letters—or at least I have been told a lot have been sent to him—and I would hope that they could be put in the record, too. And we would be very glad to let you have them.

[The information follows:]

Industrial Policy Council,
Washington, DC, March 4, 1985.

Mr. Joseph Dowley,
Chief Counsel, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

Dear Mr. Dowley: Please enter the attached material into the official record as testimony on behalf of the Trade Adjustment Assistance for Firms and Industries program. I testified before the Subcommittee on Trade on February 21, 1985, and am submitting this supplementary information at the request of Representative Frenzel of Minnesota.

These attachments describe assistance provided to firms by the Regional Trade Adjustment Assistance Centers through the Department of Commerce Trade Adjustment Assistance Program. They are examples of instances in which firms benefitted from the assistance provided.

Sincerely,

Harold Williams,
Industrial Policy Council.

Tartan Products, Inc.—A Case Study

(Prepared by Mid-Atlantic TAAC)

TARTAN PRODUCTS, INC.—RESULTS TO DATE

	1982	1983	1984 [1]
Marketing:			
Sales	$3,670,000	$10,100,000	$16,000,000
Profits	179,000	305,000	483,000

[1] Forecast.

Note.—Employment has increased from 121 empolyees in 1980–81 to 145 employees in 1983.

Benefit to Federal Goverment

Income taxes generated:	
1981	$86,800
1982 [1]	
1983 [2]	125,193
1984 [3]	200,309

[1] Due to tax loss carry forward.
[2] Forecast.
[3] Forecast.

Case History: Background on Tartan Products, Inc.

Products: Tublar aluminum beds, cots and tables, imported lawn and garden furniture.

Sales: 1981—$4,800,000; 1982—$3,670,000.

Employment: 121 employees.

Location: Delaware Valley.

Import competition: Far Eastern manufacturers and metal fabricators.

FINDINGS OF THE STRATEGIC EVALUATION

Management: Lacks marketing management and focus.

Finance: Firm is solid financially.

Marketing: Firm lacks marketing function; firm lacks marketing direction; product category experiencing strong foreign competition; American market tastes changing; and Tartan did not change its marketing or manufacturing policies as the market changed.

RECOMMENDED ADJUSTMENT PLAN DEVELOPED BY TAAC

Marketing:

Reduced market threats by: Eliminate imported products; and reduce dependence on beds, cots and tables.

Eliminate corporate weaknesses by: Building up the marketing function; focus management, resources on marketing efforts; providing business direction; and develop longer term marketing strategies to guide the firm in the future.

Build on corporate strengths by: Use of fabricating knowledge; and take advantage of lower manufacturing costs than other domestic manufacturers.

Develop market opportunities; fabricate and manufacture more fashionable products; concentrate on more "upscale" markets; and target marketing efforts to specific market segments.

Tartan Products, Inc., technical assistance to support Tartan's adjustment plant

	Cost
Define Tartan's business	$5,000
Identify characteristics of Tartan's market segments.	
Develop marketing manager	
Initiate new product development strategy	10,000
Conduct market survey for new products	8,000
Develop longer term marketing plan	30,000
Total cost of technical assistance	53,000
Government portion	39,750

BEATING THE IMPORTS: A MANUFACTURER FIGHTS BACK

By Dave Marsh, Consulting Manager,
Southeastern Trade Adjustment Assistance Center

A producer of hardwood dimension implements a strategy to compete with imports that involves government assistance.

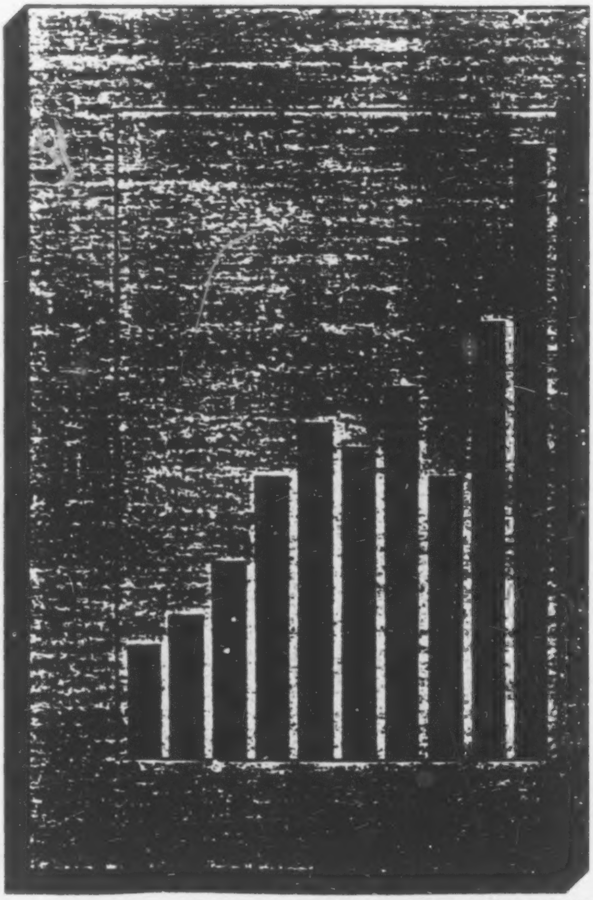
The Sparta Spoke Factory in Sparta, Tenn. will celebrate its 100th anniversary in 1996. Although he now foresees substantial growth during the upcoming decade, Lee Tubb was not too confident when he became president in 1982 that the event would be observed. Sparta Spoke's future was blurred by the impact of imported hardwood dimension, and Tubb knew that his customers were losing sales to imported wood furniture.

"Sparta Spoke, like many established family businesses, needed an incentive to change its operating habits," Tubb said. "We can't wait for customers to beat a path to our door. No longer can we accept the levels of waste common in the industry and expect to be profitable." Sparta had two incentives. The economic invasion of imports provided the negative incentive — the whip. An unusual government program provided the positive incentive — the carrot.

"We had never received government assistance before," Tubb said. "Like most manufacturers, we felt we had received just the opposite." However, Tubb has been satisfied with the help provided by the Southeastern Trade Adjustment Assistance Center (SETAAC) at the Georgia Institute of Technology. This center, like 12 others around the U.S., was created by the International Trade Administration, U.S. Dept. of Commerce, to help firms hurt by imports.

"At first we were too proud to seriously consider the program, but after an initial interview, our attitude changed," Tubb said. "We saw that they genuinely wanted to assist us, not dictate to us, and that the program permitted us to develop our plans, not theirs. They paid 75% of the cost of technical assistance and would have provided financial assistance had we needed it."

Imports, the negative incentive, have been lashing at the industry. Steve Losser, executive director of the National Dimension Manufacturers Assn. understands Spoke's concern about imports. The an-



BEATING IMPORTS

the U.S. hardwood industry has experienced little growth during the latest economic recovery, due to a dramatic increase in imported furniture parts and flooring, Losser points out. Nearly all furniture-producing countries now ship into the U.S. market. Taiwan, Korea, Canada, Yugoslavia and Denmark produce the bulk of the imports. While Canada and Denmark attack the high-quality end of the market, both furniture and dimension, the Pacific rim countries and Yugoslavia concentrate on the lower to medium priced end of the market. And they compete against U.S. dimension plants with U.S. lumber.

Losser, who has been monitoring imports, says that the total amount of wood parts brought into this country through August had already reached the annual record of $84 million set in 1983. As the average U.S. dimension plant has annual sales of $2.5 million and employs 60 people, the impact may be equal to the loss of more than 50 plants and 3,000 jobs.

Outside competition is not new to the industry. Substitute products such as composite wood, plywood, veneers, metal, glass and plastic have been penetrating the hardwood market for decades. Yet operating practices have changed little during this period. Few new technologies have reached the factory floor because either they were inappropriate for relatively low-volume orders or management felt they were too expensive. Marketing techniques have been slow to adapt to the new distribution networks in the furniture industry.

SETAAC believes that the same basics that constitute the business plan of any firm in a mature industry must be incorporated into the strategic plan of a firm fighting imports.
— Dave Marsh

The SETAAC program

SETAAC started the project with an audit of the firm's operations. This diagnostic analysis identified strengths and opportunities. Marketing, finance, production and the management organization were analyzed, and significant findings were discussed with management.

"After reviewing the diagnostic report, we developed a business plan, called an adjustment plan, that identified five comprehensive projects in which SETAAC would provide technical assistance," Tubb said. Sparta was to undertake several other tasks, which were part of the plan, at its own expense. "Four of the SETAAC projects — marketing, quality, productivity/yield and inventory management — have started and should be completed in the next four months. The fifth project, an information processing system, will be initiated upon completion of

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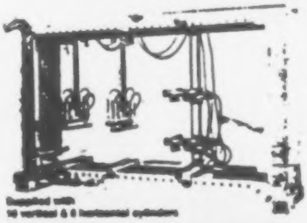

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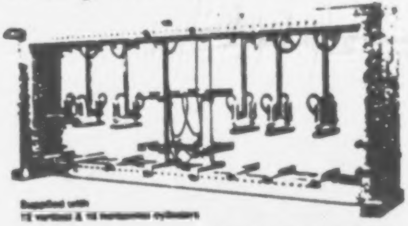

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the current work.

"We are already seeing improvements throughout our business," Tubb said. "We expect dramatic results."

Two consulting firms were approved by Sparta and contracted by SETAAC to implement specific projects in the plan. Bill Morrissey and John Ekwall of the Swanston, Morrissey & Rosenthal consulting firm are installing quality control and inventory control systems. The firm also is helping Sparta develop a marketing plan. Vince Ross and Nick Weidhass of Ross Associates are developing a yield improvement program and a productivity incentive system.

"In the marketing area, Sparta's operating strengths have been analyzed," Morrissey said. "Potential products and Sparta's marketing capabilities are being studied in detail to develop a marketing plan. The objective of the plan will be to increase sales volume in both present and selected new markets. The inventory control system is being designed to control stock levels form the forest grounds to the rough mill. The objective is to minimize inventories while meeting the rough mill schedule under high standards of customer service."

Swanston, Morrissey and Rosenthal also are installing a statistical quality control system patterned after the Deming process, which Tubb believes will significantly reduce product variations and waste. "We have established an excellent quality record but intend to improve," Tubb said.

Ross Associates is installing Costban, a participative management and profit sharing plan that controls material, supplies and labor costs. "Lumber represents about half the total cost of production, and control of this cost rests in the hands of a small number of people in a dimension plant," Weidhass said. "The main thrust is to get plant personnel to put into practice what they already know."

SETAAC believes that the same basics that constitute the business plan of any firm in a mature industry must be incorporated into the strategic plan of a firm fighting imports: Product quality is of utmost importance; a continual emphasis must be placed on reducing production costs; a marketing program must be well-defined and executed and periodically updated; and financial controls must be established and faithfully executed.

Sometimes SETAAC's analyses of a firm's market and operations results in a recommendation that the firm change its line of business or its product line, or take even more dramatic actions. Sparta had a sound operation in a stable market, so severe actions were not considered necessary in this case. SETAAC believes that Tubb has developed a plan that will utilize Sparta's strengths and address the appropriate opportunities.

"Hopefully, in a few years, some foreign manager will be asking, 'What am I going to do about these imports?'" Tubb said.

Government financial assistance

Financial assistance from the SETAAC program is available to eligible companies in the form of direct loans or loan guarantees, typically used to purchase equipment, or to expand a plant. Direct loans of up to $1 million are authorized under the Trade Act of 1974. The federal government also can guarantee 90% of loans up to $3 million with commercial lending institutions.

To be eligible for these services, a company must have experienced a decline in either production or sales and an actual or threatened decrease in employment attributable to increased imports.

Owners or managers of companies may obtain further information by contacting Dave Marsh, SETAAC, Georgia Tech Research Institute, Atlanta, Ga. 30332, telephone (404) 894-3858. ■

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Circle #81 on Reader Service Card

Helping local firms fight the ravages of imports

By LISA SCHIFFMAN
Business Journal Staff Writer

Reading Industries Inc. went bankrupt in 1981. At that time, the copper tubing manufacturer had sales of about $80 million and employed 300 workers. Both figures were twice that much the year before.

A local home furnishings manufacturing company sold $15 million worth of goods in 1978 and employed 350-400 workers in its Philadelphia plant. A year later, the firm's sales had plummeted to $6 million and it issued paychecks to about 100 employees.

Karlen Manufacturing Co. Inc., an apparel contracting company based in Hazleton, must constantly search for customers. Its client base is eroding continually.

These divergent firms have been battered by imports. But rather than allowing sales and profits to plunge ever further, each sought aid from a federally sponsored agency that helped them compete more effectively with foreign suppliers.

The agency, the Mid-Atlantic Trade Adjustment Assistance Center (TAAC), provides consultants who can help develop a plan to improve operations, and then follows up that advice with the money to make recommended changes designed to boost a firm's competitiveness.

Acting as a conduit for federal trade adjustment assistance funds that have been available to firms since 1974, the Mid-Atlantic TAAC has allotted $3.2 million to companies in Pennsylvania, Delaware, Maryland, Virginia, West Virginia and Washington, D.C. since it began operations in 1978. Sponsored here by the Philadelphia Council for Labor and Industry, the Mid-Atlantic TAAC is one of 12 centers across the country.

Nationally, TAACs have serviced more than 2,500 companies out of a total annual budget that, in the program's heyday, reached over $25 million. This year, the national budget is about $21 million.

To qualify for help under the rules established by the Department of Commerce, a firm "must demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in the firm's sales or production or both, and to the separation (or threat of separation) of a significant portion of its workers."

Initially, the Mid-Atlantic TAAC's seven professional consultants spend about eight weeks diagnosing a firm's marketing, finance, manufacturing and management strategies looking for—and usually finding—the weak spots. Once the firm is approved for aid, these consultants go about helping the company to adjust its processes accordingly.

The program "is intended for smaller firms," said James L. Holm, director of the Mid-Atlantic TAAC. Many times, he said, the degree to which a company is hurt by imports is a function of "how the management team grew up, how it evolved. If they were strong manufacturers, they probably were not too good in the marketing area."

One industry badly bombarded by a continuing deluge of imports is apparel

"TAAC helped us as far as looking at the total picture," said the marketing vice president of the Philadelphia home furnishings firm that requested anonymity. "And interestingly enough, we were looking for manufacturing help and they said we were missing the boat as far as marketing.

"We worked on that area and it has been successful," he continued. "We've developed new products through market research and that turned us from a manufacturing concern to more of a company that was marketing products."

From production of only one line of very discounted items and distribution to mass merchandisers like the K-Mart and Clover chains, this company now manufactures three lines—"good, better and best" in quality, said the vice president—and distributes to more kinds of stores. Their customers now also include better department stores like John Wanamaker, Macy's, Bamberger's and Gimbel's.

"Our employees are up to 200 now, sales are back to around $15 million," said the vice president. "We're work-

Please turn to next page

Charles J. Walles, Vice President, Pureland Industrial Complex. A. Carl [illegible], President, Pureland Industrial Complex.
Robert A. [illegible], Jr., President, Midlantic National Bank/South. James E. Strangfeld, Senior Vice President, Midlantic National Bank/South.

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CASE HISTORY

The company is a manufacturer of miniaturized components for electronic consumer products. The two major markets accounting for the company's sales were undergoing changes that would probably eliminate the need for the company's products. The company saw the need to develop a strategy to counter this event.

An assessment of the company's unique abilities to manufacture products requiring high precision miniaturization was made by the TAAC and the firm's management. High-growth markets compatible with the company's abilities were identified for possible entry by the company. A determination of those markets and products that would present the best opportunities to the firm was the next step to be taken.

To accomplish the research and identification of appropriate markets and products, the TAAC assisted the firm in locating a market consulting firm with the expertise necessary to evaluate the target markets and determine which products best fit their capabilities.

The study resulted in the recommendation to proceed on two of fifteen original product ideas, a flexible subminiature interconnect system and a leadless chip carrier socket. Estimates for sales for each of these products was $5 million within 3 to 5 years. The company's management was pleased with the results. As of this date, the company is working on the prototypes of these products.

CASE HISTORY

L&W Engineeering Co.
6771 Haggerty Road
Bellville, Michigan 48111
Mr. Wayne Jones
313/397-2212

An adjustment proposal was developed by the TAAC and accepted for L&W Engineering Company, a metalworking company. At the time of certification, the company's only business was supplying parts to the auto industry. After experiencing very rapid growth in the late 1970s, the slump in the auto industry and increased foreign competition cut into sales and profits.

Recommendations were made in the marketing, manufacturing, and financial areas. The TAAC directly assisted in locating a financial vice president for the company. This was followed by the development of a market strategy to diversify into other markets. The need for a management information system to cover production control and a cost accounting system was indicated.

Technical assistance was provided to fund a market study. This study resulted in products for two non-automotive markets suitable for the company's capabilities. The company has since begun manufacturing stainless steel surgical staple removers and trailer hitches for cars. Both of these products have seen significant sales growth.

Currently 10,000 staple removers per month are being produced. The trailer hitches have been tested and accepted by the U-haul distributor network. Sales of the hitches has grown continuously over the past year. These products have helped the company counter the cyclical nature of the automotive industry markets.

Technical assistance was also provided to develop and install a computerized production control and cost accounting system. This has given the company better control of their operation.

Financial assistance was also approved for this company. Loan funds were used to purchase production equipment to modernize their plant.

The company is having their best year ever and they have indicated that the Trade Adjustment Assistance program was a major factor in their success.

CASE HISTORY

In fiscal 1983, a small metal working company in Northern Illinois experienced a significant sales decline in its major product line -- disposable medical instruments. Because it is a well managed company, the firm has been able to maintain its overall profitability by curtailing manufacturing costs. However, import pressure has been intensifying which threatens the firm's long-term viability. Since the firm is an ESOP, management is committed to protecting the jobs of its 60 employees.

Consultants from the Midwest Trade Adjustment Assistance Center helped the company in developing an Adjustment Proposal that addressed the major problems facing the company. These problems included a declining market share in the disposable medical instrument market due to import competition, insufficient market information for a diversification effort, and the lack of a structured selling effort.

These marketing weaknesses were highlighted in the Adjustment Proposal, and a technical assistance project in the marketing area was proposed and accepted.

The firm decided not to take advantage of the technical assistance because its prime objective in entering the program was to get assistance in writing a business plan and to receive some outside recommendations on how to improve its business. Based on recommendations from the TAAC, the company hired a sales manager and enlarged its sales network. The company also received assistance from a TAAC Financial Analyst in setting up a budgetary system.

The company's sales have rebounded. Even so, it is still investigating new product ideas on its own which was the TAAC's recommendation for its long-term strategy.

TAAC

Borden R. Putnam
Chairman

James J. Hughes, Jr.
Executive Director

BASCO, INC.

Perth Amboy, NJ -

Company Background

Basco, Inc. is a manufacturer of wood picture frames for the mid-price range customer market including the "do-it-yourself" market. This industry was impacted by imports which contributed to the erosion of Basco's market share, employment and sales levels.

Technical Assistance Provided

TAAC recommended and cost shared over $50,000 of marketing and production consulting. These consulting services provided to Basco reduced production costs and resulted in increased sales. Basco also received a $300,000 federal direct loan for working capital and fixed assets.

Comments by Company Officials

According to David L. Glaser, President of Basco:

> "NJ TAAC has been the main reason that Basco was able to change from a company with severe problems to a much improved position. We had been hurt by imports and NJ TAAC's production and marketing expertise helped us survive. We are now positioned to move forward aggressively in today's competitive marketplace."

For information about NJ TAAC call or write:

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New Jersey Economic Development Authority
Trade Adjustment Assistance Center
CN-990, 200 South Warren Street
Trenton, NJ 08625

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TAAC
New Jersey Economic Development Authority

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James J. Hughes, Jr.
Executive Director

THE BATES MANUFACTURING COMPANY

Hackettstown, NJ -
Company Background

The Bates Manufacturing Company was established in 1889 by Thomas A. Edison to produce a mechanical numbering machine. Bates' product line has grown over the years and now includes a full line of office supplies such as staplers, list finders, card files, rulers and computer accessory supplies. The company occupies 125,000 square feet and has 322 employees, up from 300 a year ago. Distribution is international utilizing a full time sales force domestically and a network of agencies and representatives throughout the world. Bates has experienced severe competition from low cost foreign producers. The company became interested in the Trade Act program as a vehicle to provide a means to lower its manufacturing costs through new product development which would enable it to compete more effectively with imports.

Technical Assistance Provided

The NJ TAAC assisted the company management in the preparation of a recovery program which concentrated on improvement of the warehousing and product design and development areas. The consulting assistance secured by TAAC for these projects cost approximately $68,000.

The warehouse project produced increased efficiency, improved space utilization, establishment of improved work standards and an overall cost reduction. Additionally, four new products were developed with the assistance of an outside design firm. Modernization of the company's products and development of new items will enable the Bates company to penetrate new markets and regain sales.

The company is currently experiencing a 10% growth in its sales volume over the previous period.

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Executive Director

DENTON VACUUM, INC.

Cherry Hill, NJ -
Company Background

Denton Vacuum is a manufacturer of vacuum chemical coating equipment. A few years ago Denton enjoyed a significant share of the market when sales rapidly declined. This was due to the introduction of imported improved equipment by British, Swedish and Japanese competitors. Without assistance Denton had considerable difficulty competing with foreign products and could not match the funds spent by foreign competitors on product improvements, advertising and product literature.

Technical Assistance Provided

The firm, with the assistance of the NJ TAAC, is now regaining and expanding market share. Over $94,000 in consulting assistance, 75% funded by the TAAC program, was provided to Denton. The funding used private consulting firms to develop three successful new products. One new product is used in semi-conductor fabrication to chemically coat computer chips. It represents Denton's expansion into the electronics industry, a market in which imports have historically been involved. Additional technical assistance of up to $125,000 has been approved and consulting sources are now being secured for the firm's advertising, marketing and planning functions.

Comments by Company Officials

According to Peter Denton, President:

> "Denton Vacuum, Inc. reports significant success we have had with the Trade Adjustment Assistance Program. Technical assistance funded through the Trade Adjustment Program has enabled DVI to develop new products and marketing plans. As a result of these efforts, DVI'S competitive position with respect to imports has been enhanced."

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OXFORD DIVISION
THE HARTFORD CORPORATION

New Brunswick, NJ -

Company Background

As printers and laminators of vinyl films, the Oxford Division products are used by manufacturers of table covers, shower curtains, juvenile products, upholstery, industrial covers and tarpaulins. New operations include production of non-woven textiles and composite materials for use in hospital operating rooms and sanitary hygiene products. The vinyl film market is severely challenged by foreign competitors and Oxford faced lower sales as a result of low-priced imports just a few years ago which prompted their request for NJ TAAC assistance.

Technical Assistance Provided

Recently a $1.7 million federal loan guarantee was provided as the result of the business plan jointly developed by Oxford and TAAC. This loan is being used to improve Oxford's facility and purchase equipment to manufacture new product lines. In addition to modernizing its plant, Oxford used TAAC technical assistance to obtain consultants to perform engineering and marketing studies, costing over $30,000. The company plans to add approximtely 60 new employees to the staff due to the assistance received.

Comments by Company Officials

According to Robert Magid, President of Oxford:

> "We faced a very rocky financial situation," as sales declined from $10 million in 1980 to $7 million in 1983. Because of the TAAC program and the federal loan, "we expect to be back in the $10 million category within 24 months."

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Executive Director

LAMBERT FURNITURE CORPORATION

Trenton, NJ -

Company Background

Lambert Furniture Corporation is a manufacturer of quality upholstered furniture, tables and chairs, supplying a number of chain and department stores including Macy's, Bamberger's and Bloomingdale's. Lambert's product line consists of more than 70 styles and hundreds of fabric combinations.

The company employs over 90 people and occupies 100,000 square feet in Trenton, New Jersey.

Technical Assistance Provided

Subsequent to the approval of the firm's Adjustment Proposal, the New Jersey Trade Adjustment Assistance Center arranged for consulting assistance in the areas of:

- Productivity and Work Methods Improvement
- Materials Requirements Planning
- Production Control Systems

As a result of work methods improvements and more comprehensive control of production, manufacturing output was increased 30-35% within a three month period permitting the company to virtually eliminate backlog and thereby improve customer service.

Comments by Company Officials

According to Martin Hirschman, President of Lambert Furniture:

> "We are an established furniture manufacturer that came under pricing pressures from imports. Through the New Jersey TAAC consulting program we have been able to reduce our manufacturing costs and increase unit productivity by 35%. This assistance has been key to the revitalization of our company."

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TAAC
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Borden R. Putnam
Chairman

James J. Hughes, Jr.
Executive Director

PENNSYLVANIA WILTON CARPETS, INC.

Wayne, NJ -

Company Background

Pennsylvania Wilton Carpets, Inc., is one of the few manufacturers of high quality custom Wilton carpeting remaining in the United States. The term "Wilton" designates a specific weaving process which is used mainly in commercial carpeting for hotels, office buildings, banks, airports, casinos, aircraft and other heavy traffic areas and which is usually custom manufactured for a particular installation.

The decline in the domestic Wilton carpet industry is the result of competition from foreign manufacturers, particularly from the United Kingdom. Although the quality of domestic Wilton carpeting is highly competitive, foreign manufactured carpets have a price advantage in the marketplace because of lower labor costs.

Technical Assistance Provided

To overcome the effects of imported products, a recovery plan was jointly developed by the firm and the NJ TAAC. The plan requested consulting assistance and a federal loan guarantee. The $1.5 million approved loan is being used to purchase new manufacturing equipment and inventory to support new sales resulting from the expansion of the company's contract weaving capabilities.

The company also received consulting assistance for the development of a comprehensive marketing plan and improved information systems through the NJ TAAC.

Comments by Company Officials

According to Michael Galesi, Chairman of the Board:

> "The NJ TAAC has been a constructive element in our overall improvement. We are now experiencing significant gains in sales".

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James J. Hughes, Jr.
Executive Director

SOBEL BROTHERS

Perth Amboy, NJ -
Company Background

Sobel Brothers is a manufacturer of high-fashion costume jewelry. The company has consistently been a fashion trend leader and, because of this innovative ability, Sobel Brothers jewelry is often copied by Asian manufacturers.

The company employs over 150 people and occupies 30,000 square feet in Perth Amboy, New Jersey.

Technical Assistance Provided

As part of its approved Adjustment Proposal, this company was approved consulting assistance for manufacturing layout, standards and methods, and to upgrade management information systems. The first phase of this work has been completed and savings of up to 15 percent have already been achieved in several operations.

Comments by Company Officials

According to Stanley Sobel, President:

> "Not only is our costume jewelry affected by rapid fashion changes, it is also highly susceptible to imitation by offshore manufacturers in low labor cost countries. With the help of the New Jersey TAAC, we have been able to improve our operations through better work methods and control systems to cope with this competition. Our future is bright."

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Executive Director

VOLTRONICS CORPORATION

East Hanover, NJ -

Company Background

Voltronics Corporation is a manufacturer of precision products for the high tech electronics industry. Typical product applications include radios, radar, missile guidance systems, mobile phones and medical scanning equipment. Voltronics requested Trade Act assistance when sales in several product lines were negatively affected by imports from the Far East and Europe.

Technical Assistance Provided

Voltronics and the NJ TAAC prepared a recovery proposal which reflected a need for consulting and financial assistance. The NJ TAAC secured consulting for the development of equipment to produce a newly designed capacitor. The product has received positive industry acceptance with potential annual sales expected to be $1 million. Additionally, TAAC provided assistance in the preparation of an application for a direct loan of $500,000 from the federal government. The loan was approved and the funds are being used for working capital to support sales growth and the acquisition of fixed assets. Since the loan closing, sales have increased at an annualized rate of 30% and employment has grown from 60 to 71.

Comments by Company Officials

According to Scott Newman, Vice President of Voltronics:

> The financing and consulting assistance have "provided Voltronics with the long term financial strength to expand its product line and its marketing expenditures so as to ensure the company's continued viability in an ever-increasing competitive environment."

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TYPE OF TRADE ADJUSTMENT ASSISTANCE
Production, Engineering/Accounting
Assistance: $74,850

FIRM NAME: Cut, Make and Trim, Inc.

ADDRESS: 227 Lone Star Blvd.
San Antonio, TX

TELEPHONE: (512) 226-5526

CONTACT: Mrs. Mildred Richie, President

Cut, Make and Trim, Inc. is in the contract, cut-make-and-sew business, primarily involved in making ladies' blouses and ladies' and children's dresses.

Due to problems caused by import competition, CMT applied for assistance under the Trade Adjustment Assistance program; the company was certified eligible on December 9, 1983. An apparel consultant was brought in to analyze the firm's problems and to design a plan which would enable the firm to recover from the impact of imports.

The primary problems identified by this consultant included: the need for an experienced general manager, the need to establish operational financial controls, the need to obtain additional working capital, the need to redesign the production area in order to make it more efficient and the need to gradually help the firm to diversify into a private label/designer business.

Consultants working with the firm over the past five months have established operational financial controls (in addition to in-house controls, a CPA responsive to the needs of CMT has been retained) and redesigned the production area. CMT is retaining the services of an apparel consultant to act as General Manager.

Initial results of the consulting assistance have been very good. Operating expenses have been reduced by $36,000 per month, and the firm has recently obtained additional financing from its bank for working capital. The firm has applied to the Small Business Administration for funds with which sales can be expanded.

TYPE OF TRADE ADJUSTMENT ASSISTANCE
Marketing/Production Consultant
Assistance: $70,000

FIRM NAME: Lone Star Screw Company

ADDRESS: 5826 Armour Drive
Houston, TX 77020

TELEPHONE: (713) 675-5281

CONTACT: Mrs. Judith Jandl, President

Lone Star Screw Company and its subsidiaries operate in the industrial fastener industry, manufacturing and distributing screws, stud bolts and other miscellaneous fastening items. Its products are sold primarily to the petrochemical and conventional and nuclear energy industries.

Foreign competition in the early 1980's forced the firm to maintain prices at unprofitable levels. Despite the company's efforts to maintain volumes, sales declined from $15.3 million in 1982 to $10.6 million in 1983. Employment during this period declined from an average of 171 to 134.

The company entered the Trade Adjustment Assistance program in the fall of 1983; it was certified on December 9, 1983. In the development of its Adjustment Proposal, it was determined that Lone Star Screw Company needed a comprehensive marketing plan which would expand its customer base domestically and internationally. It also was in need of changes in its warehouse/distribution facility.

With the help of an independent consulting firm, the company has developed a marketing program targeted to its southwest U.S. location, evaluated its production process and revamped its warehouse facility. It has eliminated the production of some unprofitable items, obtaining them from suppliers.

The company's sales have increased in recent months, with annual volumes nearing $17 million. It has returned to profitable operations and now enjoys a stronger credit reputation. The firm expects employment increases to occur in 1985.

TYPE OF TRADE ADJUSTMENT ASSISTANCE
Marketing/Production Consulting
Assistance: $167,500

FIRM NAME: M-J Industries, Inc.

ADDRESS: 1000 Washington Avenue
St. Louis, Missouri 63101

TELEPHONE: 314/421-1915

CONTACT: Siegmund Halpern, President

M-J Industries, Inc. was founded in 1974 and had developed into a well-known and profitable company. The impact of imports on most of the apparel manufacturing companies caused a decline in sales for 1981, 1982 and 1983. In mid-1982, the Mid-America TAAC began to assist the company by examining the firm's operations. From this initial assistance, it was determined that the firm needed to move into customized service-oriented markets by installing an internal silk screen department and adding embroidery capabilities.

An outside consulting firm was utilized to facilitate these changes and to recommend better methods of production of existing products. Throughout 1983, these changes were being implemented, with full production capability being achieved by the middle of 1984.

Sales that had declined from $21.3 million in 1980 to $15.2 million in 1982 (and to below $15.0 million in 1983), had already improved by mid-1984 and was projected to exceed $19.0 million by the end of 1984. This expected upswing would result in profitable operations for the first time since 1981.

Employment levels, which had continuously declined from a high of 648 in 1980 to 370 by 1984, is expected to increase to above 400 by the first of 1985 and could be back to old levels of 600+ by 1986.

The firm has proven to be a viable company that benefited greatly from the assistance provided by the Mid-America TAAC under the Trade Act of 1974.

MAYHEW STEEL PRODUCTS, INC.
Sears Street
Shelburne Falls, MA 01370
(413) 625-6351

John Lawless
President

Product: Industrial Hand Tools
Employment: 53
Technical Assistance: $62,000 (marketing and engineering)
Financial Assistance: None

Mayhew Steel Products is a long-established family firm with a quality image in its market (industrial hand tools, primarily chisels and punches). NETAAC's analysis of Mayhew's situation found that the firm's relatively high break-even point made it difficult for Mayhew to compete with lower-priced imported products. The key to lowering Mayhew's costs was a realignment of the manufacturing process and updating of equipment, much of which was more than 30 years old. NETAAC and Mayhew management also found a need to improve the firm's marketing/sales strategy to increase volume.

Technical assistance in the area of marketing is now complete. As a result of the technical assistance, the firm has successfully implemented some specific changes including deleting less profitable items from the product line, designing a new product catalog and replacing new productive manufacturers' representatives. Technical assistance in manufacturing is nearly complete. The firm has already acquired one major new piece of equipment and plans to purchase several more. Plans are also underway to consolidate Mayhew's manufacturing facilities into a more efficient production site. Estimated savings are expected to be $100,000 per year.

Mayhew Steel Products' sales increased 30 percent for the first quarter of Fiscal 1985 over the last quarter of 1984. Over the past 18 months, the firm has also increased their work force from 35 employees to 53. Additional hirings are planned. Profitability has increased dramatically.

The firm plans to finance their plant consolidation through a combination of public and private funding sources, not Trade Adjusment-related.

Mayhew is located in a rural area of the state that has experienced a number of plant closings recently and which has a higher-than-average unemployment rate. Alternate employment opportunities are not readily available in this geographic area.

TYPE OF TRADE ADJUSTMENT ASSISTANCE
Engineering Assistance to Diversify
Product Lines: $43,945

FIRM NAME: Tulsa Power Products

ADDRESS: 11130 E. 56th St. South
Tulsa, OK 74146

TELEPHONE: 918/252-3535

CONTACT: Mr. J.P. Ruch

Tulsa Power Products Company is an engineering/manufacturing firm. Primary markets for its product lines are electric utilities/communications installers (wire and cable handling equipment) and industrial firms (industrial strobe warning lights). Product engineering and technology development have been the competitive edge for the company since its founding in 1973. The major portion of its business has been derived from its wire and cable handling equipment.

Foreign competition, in 1982, was able to take over 50% of the company's sales. This dramatic change in the competitive position of the company happened quickly as importers entered the market. The firm responded with major cost reductions, but was unable to offset gains made by its competitors which were accomplished primarily with lower-priced, substitutable products.

In the fall of 1983, the firm acted upon its appraisal of need for outside assistance in order to overcome the onslaught of imports. Its initial assistance included a complete diagnosis of its operations, product lines and management to identify where to best apply the firm's recovery efforts. Subsequently, product engineering (the previous market edge) was selected as the best focus for a full and cost-effective way to achieve recovery. Therefore, consulting assistance (product engineering) was started in December, 1984.

At this time, the consultant is on schedule with about one-third of the scope of work completed. Concurrent with the consulting project, changes have been made in the manufacturing as well as testing processes such that improvements are highly visible to the work force in these areas. Also during this time, employment has increased from 11 to 14.

Overall, the firm has made progress, achieving growth in profits, sales, and employment since the initiation of the technical assistance. Based on a status review as of January 22, 1985, a continuation of improvements can be expected as technical assistance projects proceed toward completion.

I. BETA HANDBAG CORPORATION

750 West 18th Street
Hialeah, Florida 30310
Product: Handbags

This manufacturer produces ladies' handbags sold through finer department and speciality stores in the United States and Canada under a designer label franchise agreement. When the Southeastern TAAC was contacted, sales had declined and losses incurred due to many interrelated problems among sales, manufacturing and finance. In manufacturing, short production runs and the lack of incentive systems presented longer-term efficiency problems as sales increased. Programs were implemented to install an appropriate incentive system, reduce manufacturing costs and assist in the development of long-term capital equipment needs. Marketing assistance was also provided to support the firm in developing a marketing planning process. After implementing many of the Southeastern TAAC's recommendations, the company increased its sales and regained profitability. The company was purchased from the parent organization by a group of four operating executives and an outside investor. An unprofitable luggage line was dropped and sales are expected to double by 1986.

II. DAWSON INDUSTRIES

Industrial Park
Dawson, Georgia 31742
Product: Apparel Sportswear

This medium sized firm engages in the manufacturing, selling, and distribution of men's, women's, and children's active sportswear in both knit and woven fabrics. Its product line in the past included sleepwear and underwear. The firm developed a business strategy to reposition its product line to include higher priced and more fashion-oriented activewear. The firm was able to significantly increase sales, but was not able to generate adequate profit performance due to continued import competition. To improve profitability, the Southeastern TAAC recommended the installation of a fully integrated production control system; the re-engineering of the sewing room to include updated piece rates and cost reporting procedures; a change in plant layout; and supervisory training. Implementation of the recommendations has been successful resulting in significant cost savings and new jobs.

III. NATIONAL BEDDING AND FURNITURE, INC.

1700 Channel Avenue
Memphis, Tennessee 38113
Product: Dinette Furniture, Mattresses

This furniture manufacturer produces a line of popular-priced wooden dinettes and serves a regional market in the South-Central United States. The firm has the problem of operating a highly specialized and automated furniture plant capable of producing only a limited variety of table and chair styles. As a result of an extensive market study, a business strategy for the firm was outlined and recommended the dinette manufacturer: improve table and case goods offering by including a greater variety of styles; become a service oriented company dedicated to in-stock delivery and other dealer responsive programs; become an important source to dealers by expanding upward from "dinettes" to the "dinning room furniture" segment of the market; and establish a new manufacturing facility capable of producing a wide variety of tables and case goods while retaining the existing plant as a highly automated chair production facility.

IV. PLASTIC INDUSTRIES, INC.

Post Office Box 669
Athens, Tennessee 37303
Product: Injection Molded Plastics

The firm produces a broad range of injection molded products including trim parts for upholstered furniture, saddle trees, kitchen cabinet doors and drawer fronts, material handling trays, and white-water kayaks. The company exhibited a number of internal, manufacturing problems. Specifically, the company's bulk chemical receiving, molding facilities and finishing facilities were not centralized, leading to manufacturing inefficiencies. In addition, some of the firm's molding equipment and finishing equipment were outmoded. Engineering consulting services were provided to determine the feasibility of consolidating all bulk chemical receiving, molding and finishing operations. The Southeastern TAAC also evaluated the costs of modifying existing molding equipment by improving controls and adding new molding and finishing operations. Also, a marketing study was performed to quantify market potential for a line of protective clothing produced by a company which the client firm had identified as an acquisition candidate. The firm's sales have improved by 40 percent and employment has increased by 25 percent.

V. ROCKY MOUNT MILLS

1151 Falls Road
Rocky Mount, North Carolina 27801
Product: Textile Yarns

This long time textile manufacturer is a producer of cotton and synthetic spun yarns for use in apparel and upholstery fabrics. The firm was successful until the mid-70's when the economic recession and imports began to erode its profitability. The firm was faced with the need to reduce its manufacturing costs to improve its operating margins. The Southeastern TAAC's evaluation indicated numerous problems relating to labor productivity. As a result, Southeastern TAAC recommended that a training program be designed and implemented for all production and supervisory personnel. Results of the program included an estimated annual savings of $450,000 along with an improved working relationship between management and operators.

VI. SPARTA SPOKE COMPANY

Post Office Box 240
Sparta, Tennessee 38583
Product: Furniture Parts

This Southeastern firm has produced dimensioned components for furniture and equipment manufacturers for nearly a century. The major product line is knocked-down chairs but other furniture and equipment parts generate a significant share of the firm's output. As a result of weak production controls, the firm suffered delivery and quality problems and had a history of poor material utilization. Additionally, the firm had excess investment in inventory and weak inventory management practices. The firm's major product line was sold to only two customers and was vulnerable to import competition. The Southeastern TAAC provided a strategic business plan which helped the firm overcome its market restraints and operating weaknesses. The company reduced its dependence on knocked-down chairs; diversified out of the hardwood dimension industry through backward integration; achieved operating efficiencies through material yield improvements and an inventory control system; improved its marketing program through a quality control system; and achieved better production control to meet delivery schedules. The company accomplished these objectives, and reduced returns and late deliveries by nearly 70 percent. A timber management and logging operation has been initiated on previously idle land. The firm has also lowered costs by over 15 percent as a result of material yield improvements and increased its overall sales volume.

VII. STANLY KNITTING MILLS

Post Office Drawer 749
Oakboro, North Carolina 28129
Product: Women's Knit Tops

This company manufacturers and sells a full range of women's seperate and coordinated knitwear apparel. As import competition increased in the chain and discount areas of the women's knit sportswear market, the company developed a marketing strategy to compete in the high-end women's knitwear market by upgrading the style, design and fabric of its products. The new marketing strategy, though very successful, had seriously affected the company's ability to deliver orders complete and on-time, causing customer dissatisfaction and hurting the company's good reputation. The company requested technical assistance from Southeastern TAAC in designing and implementing a fully integrated management information system to coordinate the marketing and manufacturing operations. A computer systems firm is currently in the process of implementing the design and integrating it with the company's financial and accounting systems to provide a fully integrated MIS, enabling the company to coordinate the marketing and manufacturing functions and to improve on-time and complete delivery.

VIII. TENNESSEE BOLT AND SCREW

2700 Summer Avenue
Memphis, Tennessee 38112
Product: Industrial Fasteners

The firm is a manufacturer and distributor of industrial fasteners. Imports of "standard" fasteners priced below the firm's products had eroded sales to the company's customer base. Also the company's profitability was suffering due to lower margins realized from attempts to be price competitive with these imports. The SETAAC performed a diagnostic analysis of the company which indicated three main areas of opportunity. First, the company should position itself in the "special" fastener market and take advantage of their ability to manufacture smaller quantities, to deliver on a timelier basis and to provide better service to the customer on products which still maintained high profit margins and were not as subject to import competition. Second, the company should expand their customer base to include customers with whom they could leverage their production capabilities, delivery and service. Third, the company could increase their margins through the more effective measurement and control of their manufacturing. The strategy developed in the company's business plan addressed these three areas. The company has positioned themselves to be more competitive in the "special" rather than the "standard" fastener market. A systems consultant was engaged to design and implement an inter-related management information system for manufacturing, distribution and finance. Recently the company's sales have increased about 15 percent with the potential identified for new markets and products being another 25 percent. The firm is presently engaged in the implementation of the management information system which should further increase margins by at least 10 percent.

IX. WHITIN-ROBERTS COMPANY

Nations Ford Road
Charlotte, North Carolina 28230
Product: Textile Machinery

The firm is a manufacturer of textile machinery and replacement parts. Its primary product lines include textile yarn preparation equipment and miscellaneous textile equipment repair parts. This firm was formally part of a large conglomerate which had not adequately supported product development. The Southeastern TAAC performed a thorough evaluation of the firm's situation. Following the recommendations made by the Southeastern TAAC, the firm embarked upon a quality and scheduling improvement program. New personnel have been added to direct this effort and to further define new equipment and repair parts markets. Engineering design is being completed on new high technology machinery. The firm is now positioned to make substantial gains in its markets and should be able to effectively compete with its foreign competitors.

X. WESLEY INTERNATIONAL CORPORATION

3680 Chestnut Street
Scottdale, Georgia 30079
Product: Materials Handling Equipment

The firm manufactures materials handling equipment. Major products include a line of manual hydraulic pallet trucks and a line of electric powered personnel and burden carriers. Penetration into the pallet truck market by imports has been severe in recent years. The firm along with consultants from the Southeastern TAAC developed a five-year strategy that included developing a lighter, lower-cost pallet trucks; expanding the firm's dealer network; developing material and labor standards, and a variable budget of expenses; installing an MRP system; and revising the plant layout. As a result of these efforts, a new pallet truck designed to compete with imports has been introduced and currently accounts for 60 percent of sales. The plant layout has been revised and overhead conveyors and pallet racks have been installed. New production standards indicate that labor savings of about 40 percent are attainable in the updated facility. Through the efforts of the firm's management and with help from Southeastern TAAC, the firm is now successfully competing with imports in the light-duty pallet truck market. Sales are up 40 percent and employment is up by 38 percent.

XI. MONTE GLOVE COMPANY

Post Office Box 409
Maben, Mississippi 39750
Product: Work Gloves

Monte Glove manufacturers a broad line of work gloves and also distributes work gloves in styles it does not produce. The company operates three plants in Mississippi. The firm has historically sold its products through manufacturers representatives to distributors, who then resell to industrial users and retail stores. The company experienced a long-term decline in sales and employment as imports grew, but has increased sales and employment since implementing the Trade Adjustment Assistance recovery plan. Sales are up 40 percent although imports have increased market share. The company has rehired all former personnel remaining in the area and has begun a training program for new employees. As part of the plan, Monte has developed a telemarketing program, has broadened its manufactured product lines and has improved its cost accounting.

XII. OWENBY MANUFACTURING COMPANY

Route 3
Marietta, Georgia 30512
Product: Apparel Activewear

The firm, a manufacturer of apparel activewear, entered the Trade Adjustment Assistance Program with significant weaknesses in its marketing and production areas. These weaknesses severely reduced its ability to compete effectively against foreign produced apparel. The Southeastern Trade Adjustment Assistance Center provided technical assistance to Owenby which focused on improving first line production supervisors' ability to reduce excessive labor costs. The firm experienced an overall improvement in sewing operator performance and a reduction in excess labor costs of about $78,000. Based upon SETAAC's recommendations the firm modified its marketing direction and subsequently achieved an improved product mix and stablized customer base.

XIII. GENNETT LUMBER COMPANY

91 Thompson Street
Asheville, North Carolina 28813
Product: Lumber

This firm processes and sells kiln dried lumber. A substantial portion of these sales are exports. Due to capacity limitations and financial constraints preventing adequate levels of raw material inventories, the company was unable to take advantage of sales opportunities. During the initial assistance phase of the project, the SETAAC determined that the erection and utilization of an additional dry kiln would permit Gennett Lumber Company to increase sales. Further it was determined that the company should increase its raw material inventory and in-process inventory levels to reduce processing costs and improve production timing. The SETAAC also assisted Gennett Lumber Company in the application for a government guaranteed loan through a local bank. A new kiln was constructed which is currently in use. Gennett Lumber Company is currently in the process of closing the government guaranteed loan to pay for the construction of this additional dry kiln and to purchase more raw material inventory. It is anticipated that the firm's sales volume will increase by 25 percent and their processing costs will decrease by 10 percent.

XIV. **WIKIT, INC.**

Post Office Box 1447
LaGrange, Georgia 30241
Product: Industrial Towels

The firm, a manufacturer of industrial towels, found themselves competing in a market flooded with commodity industrial towels from foreign countries. The Southeastern TAAC and the firm developed a strategy which focused on developing a differentiated product and by reducing manufacturing costs. Recommendations concerning both elements of the strategy have been implemented and the firm has increased sales by over 50 percent.

XV. **PIONEER HEDDLE AND REED COMPANY**

Box 10586
Atlanta, Georgia 30310
Product: Textile Machinery Accessories

The firm produced accessories used primarily on textile weaving looms. The firm had begun to loose sales as its product line had not kept pace with the requirements of higher technology looms. The Southeastern TAAC also identified other problems associated with its internal controls and marketing/sales procedures. Primary assistance was provided to help the firm update and properly engineer new products. Other assistance focused on improving the firm's cost accounting system and marketing approach. The firm has been successful in introducing new products. Sales have increased 25 percent with new products accounting for a majority of the sales. Because the firm had regained its competitive ability, it was recently acquired by a larger textile machinery manufacturer.

XVI. **AMERICAN WICKER, INC.**

500 West King Street
Boone, North Carolina 28607
Product: Wicker Housewares

The firm is a producer of wicker housewares (baskets, trays, plant stands, bath items, etc.). The diagnostic analysis performed by the SETAAC indicated several areas for cost reduction and improved operations. The firm eliminated its bath items product line and refocused its marketing effort to higher end merchandise. Several new product lines were added which complemented its manufacturing capability. An extensive manufacturing re-engineering project was implemented to reduce costs. The firm has made significant progress in meeting its competitive objectives.

XVII. MAPLE TREE, INC.

Post Office Box 73
Maplesville, Alabama 36750
Product: Women's Blouses

At the time the SETAAC undertook this project, Maple Tree, Inc. was primarily a contractor in the apparel industry. Their product line included many styles of women's blouses and dresses in the lower to mid price points. These products were primarily retailed through chain stores. The company's market was characterized by poor styling, large quantities of assorted sizes and colors, and price sensitivity. This market was very susceptible to import competition. In the initial assistance phase of this project, the SETAAC recommended that the company reposition itself as a manufacturer of higher price point garments and that they concentrate their product offerings to a fewer number of higher styled garments. Maple Tree has adopted this strategy and has become a manufacturer of an up-scaled line of women's separates and coordinates for speciality stores. The company has thoroughly adapted their manufacturing to permit many lower volume production runs and they have reworked their sales reps to sell in these new markets. The company is presently in the execution phase of their repositioning and prospects appear good.

XVIII. STERIDYNE CORPORATION

3725 Investment Lane
Rivera Beach, Florida 33404
Product: Disposable Thermometer Covers

Steridyne manufacturers disposable thermometer covers used by hospital and other health care institutions. Steridyne was not only injured by imports but the imports were infringing on the firm's product patents. The firm was able to block the patent infringements and embark on a recovery strategy outlined in a plan prepared with the assistance of the Southeastern Trade Adjustment Center. The firm obtained a Trade Act Loan for working capital and a new building. Sales and profits have increased and today the firm is successful and their loan is current.

XIX. INJECTION FOOTWEAR, INC.

8730 N.W. 36th Avenue
Miami, Florida 33147

The Southeastern TAAC with the assistance of a specialized footwear consulting firm performed a diagnostic study which identified improvements in the production, marketing and overall operations of the firm. Most of the recommendations outlined in the diagnostic study were implemented by the management of the firm. As a result, the firm has been able to better compete directly with imports. The management feels that without these new systems in place, the plant would not have been able to compete in the import dominated footwear industry resulting in a plant shut down and displacement of 1100 workers.

NORTHWEST TRADE ADJUSTMENT ASSISTANCE CENTER

MEMORANDUM

TO: All Staff - (and other interested and non interested parties)

FROM: F. J. McLaughlin, Director

SUBJECT: Current Case Load Successful Engagement Summaries

DATE: February 26, 1985

- -

	Employment			Sales (000)		Profit (000)	
Firm #	Begin +	Increase =	Current	Begin	Current	Begin	Current
199	131	69	200	$4,500	$6,600	$ (607)	$200
213	3	4	7	500	1,600	(3)	100
220	119	(13)	106	4,200	6,300	(300)	495
230	58	12	70	3,400	4,500	(83)	139
239	71	113	184	13,500	22,700	(2,900)	(500)
245	41	61	102	1,500	2,400	179	42
259	109	(21)	88	4,600	5,028	(64)	231
263	66	3	69	3,695	4,706	(695)	245
265	137	33	170	11,000	12,000	(600)	350
271	315	104	419	24,000	27,000	546	900
276	25	15	40	1,869	2,327	17	112
Totals:	1,075	380	1,455	72,764	95,161	(4,518)	2,314
% Increase:			+ 35.2%		+ 30.8%		

Eleven firms receiving technical assistance only, no financial assistance.

- Employment increased by 380 jobs or 35.2%
- Sales went from $72,764,000 to 95,161,000, a 30.8% increase
- Profits went from a $4,515,000 loss to $2,314,000 profit before taxes

THE PROGRAM WORKS IN THE PACIFIC NORTHWEST

Since it appears to be the season to "bad-mouth" Trade Adjustment Assistance I thought you all should see something positive. It works because you made it work through hard work and dedication.

Thank you!

P.S. The 380 workers and their families thank you.
The Secretary of the Treasury thanks you for the triple-net contribution provided the U.S. Treasury.

NORTHWEST TAAC

Successful Engagement Summary

Firm #199 Washington State manufacturer of women's coats and suits.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
131	200	$4,500	$6,600	$(607)	$200

In 1982, this company was struggling financially after its moderate-to-low priced coats and suits were being undercut by imported coats from the Far East. Employment had fallen from 219 to 131, as two plants were closed.

NWTAAC helped the firm develop a marketing strategy which emphasized a product line change to better quality, higher priced coats and suits. Also undertaken was a re-engineering of the sewing floor and finishing area. The engineering effort cost the company $100,000 and was completed in December 1984. Higher profits due to lower labor hours per unit of output have just begun to be realized.

Early orders for next fall's line indicate that sales will exceed $8 million in 1985, with profits of $200,000 - 300,000.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #213   A Washington manufacturer of food processing equipment.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
3	7	$500	$1,600	$(5)	$100

A small manufacturer of food processing equipment, including conveyors, belt systems and storage systems, which was being pushed out of business by imports of like equipment from Europe.

The firm has a low employment number due to the use of outside contract workers. The firm supplies the equipment and material while an outside contractor supplies the manpower needed to complete projects.

The firm's first direction after a diagnostic review by the TAAC was to diversify. It aligned itself with a second firm to build co-generation systems to produce electrical power from wood byproducts. There was a high demand for these types of products at the time.

The sales and profitability of co-generation systems proved to be low. The firm at the same time had changed its sales force and returned to the marketplace it knew the best - food processing equipment.

With a consistent effort the firm was able to regain lost sales from those companies which had been their customers in the past. The firm now has contracts for future sales for the next two to three years.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #220 An Oregon manufacturer of marine electronics.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
119	106	$4,200	$6,300	$(300)	$495

In 1980, a marine electronics manufacturing company lost its market share of depth sounding and recording instrument sales to Japanese producers. The company also produces navigation receivers, navigation plotters and single sideband radios for the marine industry.

Late in 1981, top management was reorganized and the company's long-range planning called for the development of navigation receivers for the aircraft industry. Because of weak profit margins, depth sounding and recording instrument production was to be gradually phased out. The production of marine navigation receivers, single sideband radios and navigation plotters was also reduced.

NWTAAC helped the company develop a strategy which emphasized the profitability of the aircraft navigation industry. The new operating plans required a redesign of the marine navigation systems for aircraft navigation use and subsequent FAA approval. Other elements of the strategy included broadening the company's existing product base and improving data processing capabilities.

The company has now obtained FAA approval to enter the aircraft market with its navigation receivers. At this time, a recently hired engineer is working on the design changes necessary to adapt the marine products for use in aircraft.

Market studies are also being completed to identify those products which compliment the company's technological base while matching current and future market opportunities. Finally, an information systems consultant is implementing improvements in the company's data processing department. All of which will not only have a positive effect on the firm's domestic market but will significantly enhance its export market as well.

2/28/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #230   A Washington manufacturer of saw blades.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
58	70	$3,400	$4,500	$(83)	$139

When NWTAAC began assisting this carbide saw manufacturer in 1982, it was experiencing losses for the first time in its history due largely to import competition. A diagnostic analysis was performed which identified certain improvements the company could make itself. These improvements were made which allowed the company, with NWTAAC's assistance, to put together a realistic adjustment proposal to receive technical assistance. This assistance is now being implemented.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #239 An Oregon wood product manufacturer.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
71	184	$13,500	$22,700	$(2,900)	$(500)

This Oregon sawmill had sales and profitability fall dramatically in 1982 in response to curtailed residential construction activity across the U.S. and increased Canadian import penetration. TAAC assisted this firm in determining whether to reopen a plywood/veneer mill. The log resource was quantified, evaluated and sized according to species. Then all potential products from the raw material supply examined and this array was matched to the potential markets. The existing facilities were evaluated. This project enabled the firm to concentrate on its most profitable products. Sales have increased by approximately $7MM and employment has increased by 113.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #245 An Idaho manufacturer of fiberglass helmets.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
41	102	$1,500	$2,400	$179	$42

The firm is a manufacturer of high quality fiberglass helmets that are used by motorcycle, bicycle and snowmobile riders. It is a relatively small firm - - sales for its best year of the last three years reached $1.5 million - - yet, it is a large and important industrial member of the community. The firm, nevertheless, markets its helmets nationwide.

Imported helmets, especially the inexpensive plastic varieties, have captured a large sector of the market for sports helmets in recent years. In addition, sales of recreation vehicles have been depressed during the 1981-83 recession, and, in turn, helmet sales have been depressed. Finally, the growing appeal of the inexpensive plastic helmets may also be a product of the recession in that quality has been sacrificed for price. The difference between plastic and fiberglass quality may not be readily apparent to a thrifty purchaser.

The firm has demonstrated a capacity to survive in a crowded market, even though it is small and remotely located. Its products are superior in quality and marketability and its management is dedicated, imaginative and tenacious. The president and major stockholder has built the company from scratch, and he has assembled a loyal, productive workforce that essentially shares his goals for success. He has invested a significant part of his human and financial capital in the firm, and he is fighting to protect that investment.

NWTAAC conducted a diagnostic analysis that found the company to be sound but in need of marketing assistance. It identified a need for a marketing plan for existing products as well as the potential opportunities to develop other fiberglass products that would complement the firm's present line.

The diagnostic also recommended improvements in the management information system.

The MIS work performed by the consultant alone gave the firm better feedback on what was going on in production in a timely manner aiding management to make good decisions. One of the key MIS improvement was to the production control system conversion from hand written documents to computer controlled reports.

The value of TAAC assistance is evident in that sales increased by 60 percent and employment by 149 percent.

NORTHWEST TAAC

Successful Engagement Summary

Firm #259 A Washington manufacturer of ski sweaters.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
109	88	$4,600	$5,028	$(64)	$231

This ski sweater manufacturer found sales slipping gradually over the past four years. With TAAC's assistance their short term strategy led them to focus on increases in productivity while concentrating on private label contracting to fill the off season production. A new production layout, a wage incentive program, the revamping of the quality control system, and a new costing system has enabled the firm to regain profitability. The firm is just beginning a marketing study that will determine the most appropriate cyclical product for the firm to produce.

2/26/85

NORTHWEST TAAC

Firm #263 An Oregon manufacturer of gray and ductile iron castings.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
66	69	$3,695	$4,706	$(695)	$245

This firm produces gray and ductile iron castings, using induction melting equipment, in weights ranging from a few ounces to 12,000 pounds clean weight. Conventionally green and no-bake (chemically set) sands are used to produce cores and molds. The foundry uses squeezer, pin lift and floor molding techniques, which accounts for the high flexibility in the type and size of castings it's able to produce. It is a jobbing foundry.

The domestic foundry business suffers from direct imports of foundry products into the U.S., but it also suffers indirectly from the importation of finished goods which contain castings. These include such diverse products as fork lift trucks, farm machinery, pumps and other plumbing equipment products, and household appliances, all of which are made in part with iron castings. Domestic foundries are losing sales to domestic producers of finished goods because these finished goods manufacturers are, themselves, losing out to imports. Thus, the foundry business suffers doubly from imports, and that is indeed what is happening to the firm.

Our diagnostic analysis found the firm to be a technically sound and well regarded manufacturer with a highly skilled supervisory team and workforce. The owners were not involved in most daily decisions and had not relinquished sufficient authority to the general manager to enable him to function efficiently. Caught in a rapidly changing marketplace, this ownership/management relationship was found to be inadequate for survival.

Accordingly, NWTAAC assisted the firm in selecting a consultant to introduce strategic planning to key management personnel and to assist them in completing a strategic and operations plan. The planning process additionally provided a much needed opportunity to establish vital lines of communication between the owners and the professional managers, to audit objectively the key area of the firm, and to work cooperatively to devise solutions to problems and weaknesses that were solvable.

The foundry managers recognized their limited understanding of the market that they served, especially in light of the rapidly changing technology on the one hand and the intense competition from overseas on the other. The foundry's good reputation for quality and service continues to carry it for some of its customers, but price competition has begun to erode this base and more appears to be in the offing. NWTAAC's technical assistance in marketing will address these matters. Due to the rapidly changing technology of metal casting, assistance is needed in the assembly of a technical library to identify ongoing sources of technical reports and to devise efficient ways and means of disseminating the information to key management people.

An industrial engineering study about to begin will provide increased productivity beyond that already accomplished with the increased sales and profits from assistance to date.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #265 A Washington manufacturer of aircraft parts.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
137	170	$11,000	$12,000	$(600)	$350

The firm machines and fabricates aircraft parts. Total sales peaked in 1981 at $15.7 million but dropped in 1983 to $9.3 million due primarily to import penetration via "offset" policies between domestic aircraft manufacturers and foreign purchasers. The "offset" policy in effect requires major components to be manufactured in the purchasing airline's county.

In addition to import impaction, factors contributing to the firm's sales decline have included the economic recession, the cancellation of future orders for aircraft by the airlines, and the change over to newer models of aircraft. This latter condition caused long-term orders for parts to be cancelled, while others were accelerated. This resulted in increased production costs due to short runs and, in turn, caused late deliveries.

The management's relationship with the workforce is excellent because the employees have confidence in its guidance. This confidence is clearly accented by the recent cut back in wages, which affected everyone in the plant from the president to the janitor. The cutback did not split the employees, but brought them closer together. Management looks out for and takes care of its employees.

A diagnostic analysis was conducted on the firm's operations by NWTAAC. The analysis identified significant opportunity to increase sales and improve efficiencies through the implementation of a software module into the present Manufacturing Requirement Planning (MRP) system.

Though the implementation of the plan is just underway, the firm is turning around with higher sales and an increase in employment and profits.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #271 A Washington manufacturer of snow skis.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
315	419	$24,000	$27,000	$546	$900

Sales for the entire U.S. ski industry began to decline two or three years ago. Snowless winters, import competition and the sluggish economy contributed to the decline. With sales roughly half of what they were formerly, the firm was able to produce profits in FY '83 and '84 through debt restructuring and cost cutting in every department. TAAC is helping the firm further reduce costs of manufacturing by putting in a production incentive plan. A marketing research project has been conducted to enable the firm to regain market share. Sales for the current fiscal year (with 10 months accounted for) are equal to last year's total sales, and profitability has increased by 48 percent.

2/26/85

NORTHWEST TAAC

Successful Engagement Summary

Firm #276 An Oregon manufacturer of rock crushing equipment and machinery.

Employment		Sales (000)		Profit (000)	
Begin	Current	Begin	Current	Begin	Current
25	40	$1,869	$2,327	$17	$112

This firm is a manufacturer and dealer of rock crushing machinery and asociated systems for screening and conveying crushed rock, gravel and sand. Its products are mainly sold to construction firms, sand and gravel producers, cement and ready-mix firms, and mine operators. It sells primarily in the Western States and Alaska.

The firm's sales ($2.28 million in 1983) represent only a tiny fraction of the U.S. construction machinery sales, yet it has become a successful supplier in the region by engineering and building machines to its customers' specifications that are simple and durable. Components from other manufacturers are used in order to reduce costs. The firm specializes in portable rock crushing plants, mainly for construction contractors who must move from one job to another.

NWTAAC found the firm to be viable and considers it to be an excellent candidate for applying benefits under the Trade Adjustment Assistance Program. The assistance requested for marketing and product literature materials is needed to present the firm's products in a professional manner, commensurate with the giants of the industry. Because it has a limited marketing staff, the training and presentation package for dealers, the trade show booth design, and media materials are needed to multiply its marketing effectiveness, while keeping sales expenses at a minimum. The engineering assistance will expand the firm's line of screens to include a horizontal model, which will be especially useful for portable units that have height restrictions. A system analyst will bring the firm's computer system up to the state-of-the-art level enabling cost savings in financial mangement, investing and production.

Progress to date has been gratifying and even though implementation is not complete increases in employment, sales and profit have begun.

2/26/85

RICHMOND SALES, INC.
42 Power Road
Pawtucket, RI 02860
(401) 727-1500

Richard Pacia
President

Product: Costume Jewelry
Employment: 16
Technical Assistance: $33,000 (marketing and management information system)
Financial Assistance: None

Richmond Sales is a manufacturer of costume jewelry, an industry that has been severely affected by import competition, primarily from the Far East.

NETAAC found that Richmond could improve its marketing efforts in a number of areas to increase sales and profits. Specific recommendations included price increases for selected products, a telemarketing program, special promotional mailings and targeted trade show participation and the installation of computer software required to operate the telemarketing program.

With TAAC assistance, the firm has implemented all of the above recommendations. (Installation of the computer program in ongoing at this time.) Richmond Sales is experiencing dramatic improvements: sales and profits for the last six months of 1984 increased approximately 70 percent above the previous year's levels. The company has increased their work force by 20 percent.

Although the improvement in the economy is a contributing factor to Richmond's progress, the fact is that Richmond's sales gain is greater relative to other firms in the same industry. Management attributes these increases to the Trade Adjusment Assistance Program.

CHELSEA CLOCK COMPANY, INC.
284 Everett Avenue
Chelsea, MA 02150
(617) 884-0250

Richard Leavitt
President

Product: Clocks
Employment: 56
Technical Assistance: $102,000 (market study and product development)
Financial Assistance: None

Chelsea Clock Company is a 100-year old firm whose mechanical striking brass clocks have been used in U.S. naval vessels since 1897. Chelsea is the last fully integrated clock manufacturer left in the United States.

The advent of quartz technology--particularly clocks with quartz mechanisms manufactured in Japan--did not bode well for a firm like Chelsea that was unwilling to compromise the quality of its product with imported plastic mechanisms. Consequently, Chelsea management wished to develop the ability to manufacture their own quartz mechanisms made of durable metal components.

Trade Adjustment Assistance funded a marketing study to determine the sales prospects for such a clock. The results of this study were positive, and Chelsea, with additional program assistance, developed a prototype product. NETAAC then assisted in the tooling and transferring of this prototype into economical production. The Chelsea Clock with the newly developed metal quartz mechanism was introduced to the market for the 1984 Christmas season. The results of this successful product development and market introduction are as follows:

- Employment increased by 10 percent due to increased production needs.

- Sales for the 1984 Christmas season of the new product exceeded $375,000 at better than projected profit margins.

- Sales for 1985 are conservatively projected at $750,000 to $1 million.

- Due to this new product, Chelsea has recently signed a contract with A T Cross, the largest supplier of corporate giftware in the United States. This is a new market segment for Chelsea Clock, and the sales to this segment will be for the new quartz clocks as well as the rest of the company's product line.

L. HARDY COMPANY
17 Mill Street
Worcester, MA 01603
(617) 756-1511

Norman Monks
President

Product: Industrial Knives
Employment: 45
Technical Assistance: $25,000 (engineering); $24,000 (marketing)
Financial Assistance: $1 million loan guarantee (application pending)

The L. Hardy Company has manufactured industrial knives primarily for the leather processing and textile industries for over 30 years. Approximately 80 percent of its products have been exported in recent years as the domestic leather processing and textile industries have declined. Between 1980 and 1983 the company's sales and employment had declined by over 40 percent, and losses had exceeded $400,000. These happenings were a direct result of the strong U.S. dollar which caused an increase in imports and a decrease in foreign demand for the company's products.

NETAAC provided technical assistance in engneering, to install a manufacturing incentive system; in accounting, to facilitate submission of an application for a $1 million government guaranteed loan; and in marketing, to investigate new product opportunities in domestic markets. To date, the engineering assistance has resulted in increased productivity and reduced manufacturing costs. The accounting assistance was an important factor in the company's establishment of a new banking relationship which reduced borrowing costs and provided an increased line of credit. In 1984 the reduced costs made possible more competitive pricing, and this resulted in a 19 percent increase in sales volume and a pre-tax profit of $100,000. Employment has also increased by 10 to 12 percent.

The marketing study has not been completed, but preliminary reports have indicated that a number of potential opportunities exist for increased domestic sales volume.

ANSON INCORPORATED
100 Dupont Drive
Providence, RI 02907
(401) 944-2200

Joseph Carpinteri
Chief Executive Officer

Product: Jewelry and Writing Instruments
Employment: 230 (at time of certification)
Technical Assistance: $140,000 (marketing, manufacturing and MIS system)
Financial Assistance: $3 million loan guarantee; $1 million direct loan

Once an industry leader, Anson's annual sales had fallen from $20 million to $13 million, employment had declined from 475 to 230, the company had a deficit net worth of $2.8 million and was in Chapter XI when management sought help from NETAAC.

Imports had captured substantial market share, and the company had significant internal operating problems. NETAAC's technical assistance accomplished the following:

- Developed a workout plan that was accepted by Anson's creditors, thus, releasing the company from Chapter XI.
- Provided manufacturing technical assistance that reduced costs in two major manufacturing departments.
- Established a cost and pricing system for all major orders that immediately generated substantial profitable revenue.
- Showed the company how to efficiently reduce its product line (A, B, C product review) without losing overall sales revenues.
- Identified profitable market niches for several product lines.
- Gave the company marketing/sales programs to penetrate these market niches.
- Funded private consultants to install badly needed EOP software.

Also, NETAAC was instrumental in assisting Anson's management in securing a $4 million loan from OTAA. This loan was required for working capital and capital equipment.

Anson management estimates that productivity has increased by 40 percent. Almost 170 new jobs have been added. The company is profitable, cash flow is positive and the company is current on all loan obligations. The president of the company in the local media has credited the Trade Adjustment Program with saving the company.

J. H. WESTERBEKE CORP.
Avon Industrial Park
44 Ledin Drive
Avon, MA 02322
(617) 588-7700, 986-5660

John H. Westerbeke
President

Product: Marine Engines
Employment: 62
Technical Assistance: $88,000 (marketing)
Financial Assistance: $3 million loan guarantee (approved; not yet closed)

Westerbeke manufactures marine propulsion engines and generator sets for the recreational boating industry. An economic recession, the strong U.S. dollar and an increasing level of imports had caused a sales decline, two years of unprofitable operations and a 21-percent drop in employment. NETAAC provided technical assistance which facilitated Coast Guard certification of a new line of gas-powered generator sets introduced in mid-1984. The line already represents approximately 15 percent of the company's sales volume. Technical assistance also included an extensive product/market diversification study. Although the study did not identify any totally new product or market opportunities, it confirmed that the company was already in the most logical markets for its capabilities and did identify numerous product-line extensions which would provide suitable growth opportunities. Based on these findings, Westerbeke has concentrated its product development efforts in the indicated areas and has initiated actions to acquire a large production facility to accommodate its now growing business.

NETAAC also assisted Westerbeke in securing approval of an OTAA guaranteed loan for $3 million. This loan has enabled the company to plan for the future and has given the company the ability to act to ensure continuing growth without undue financial constraints.

Westerbeke's management reports that sales and employment are up approximately 60 percent. Profitability has been restored, its banking relationships have improved, and the company is moving ahead to guarantee long-term survival and prosperity.

Although there is no doubt that Westerbeke's management had taken the appropriate steps when its business began to decline, there is also no doubt that NETAAC's assistance enabled the company to act faster than it would normally have and with more assurance. This has meant that the company is now a leader of the pack rather than chasing it. NETAAC's assistance, and the assistance of outside consultants provided by NETAAC, have strengthened the company's future.

Adorable Coat Co., Inc.
85 Tenth Avenue
New York, N.Y. 10011

Product: Fake Fur Coats and Jackets

In 1978, Adorable Coat's business was being severely affected by imports of leather coats from South America. Sales had dropped from $6 million to $3.5 million and employment was down from 100 to 30 people.

The company was assisted in becoming certified eligible for Trade Adjustment Assistance benefits. Discussions were then held with Adorable management to help develop and refine an adjustment plan...whose thrust was to shift into a new product line - an upgraded designer line of fake fur coats and jackets. A consultant was called in to appraise the firm's manufacturing operation and to review their marketing plan. One recommendation was for the company to move from it's multi-level factory to a single level facility. In order to implement their plan, the firm required financial assistance. The Metropolitan New York Trade Adjustment Assistance Center (TAAC) assisted in preparing a successful Trade Act loan application.

Now in 1985, Adorable Coat expects to achieve sales of $20 million. It's products carry the Jordache designer label and are found in all major department and specialty stores. In it's new modern plant employment is now 135, with an additional 240 workers at contractor facilities.

Dawson Industries, Inc.
1350 Broadway
New York, N.Y. 10036

Manufacturing Facility: Dawson, Ga.

Products: Ladies, Children's and Men's Actionwear
Ladies Loungewear

When Dawson Industries was certified eligible to receive Trade Adjustment Assistance benefits in 1976, it's sales were $4.5 million and employment had dropped to 385 workers. As a producer of ladies and children's intimate apparel, it's business was being adversely affected by imports.

The firm's adjustment plan emphasized a change in direction by moving into a growth area - higher priced actionwear apparel. The firm was assisted, by the predecessor organization of what is now the Metropolitan New York Trade Adjustment Assistance Center (TAAC), in obtaining a government loan for working capital and the purchase of new machinery & equipment. Subsequently, the Southeastern Trade Adjustment Assistance Center (TAAC), based in Atlanta, provided the company with an engineering management study emphasizing plant layout and productivity scheduling at its Georgia facility. TAAC also helped develop a pay incentive program for the work force.

The implementation of it's adjustment plan provided dramatic results; sales climbed to $27 million, operations became more profitable and employment increased by 115 workers.

Chromex Industries
19 Clay Street
Brooklyn, New York 11222

Products: Inks, Writing Instruments, Porous Plastic Products

Chromex established its eligibility for Trade Adjustment Assistance during 1983, when imports of writing instruments, especially from Italy, rose 25%. Specialists from the Metro New York Trade Adjustment Assistance Center (TAAC) analyzed company operations and confirmed Chromex's strategy to emphasize development of their high technology proprietary line of molded porous plastic products (trade name Interflo). Components made of Interflow have potential use in a wide variety of commercial applications such as gas and liquid filtration, pneumatic silencers, chromatography, moisture release and ink transfer.

To begin implementation of its adjustment strategy, the company asked TAAC to engage the services of an industrial engineering consultant to perform a facilities planning study, develop labor standards and refine the firm's costing procedures. Chromex currently is investigating the development of new molding methods and concepts for the porous plastic operation. Other scheduled technical assistance projects include design of specialized production equipment, market research for Interflo new product development, and a review of accounting procedures and financial controls.

Sales last year were approximately $2.5 million, employment averaged about 50. Over the last quarter, Chromex has increased sales and profitability, with excellent prospects for 1985. Trade Adjustment Assistance will provide the technical expertise to ensure that Chromex will be in a much improved position to resist foreign encroachment in their "high tech" market niche.

Dame Belt and Bag Company
636 11th Avenue
New York, New York 10036

Product: Women Belts and Handbags

Dame Belt and Bag Company is an example of a company that has managed both to survive and compete successfully in two severely import impacted industries; handbags and belts. In 1976, when the company established its eligibility for trade adjustment assistance, its sales were $3,000,000 and it employed 141 people.

The organization which preceded the Metropolitan New York Trade Adjustment Assistance Center assisted Dame in the development of a business plan which included the upgrading its product line with "designer label" bags and diversification into small leather goods such as wallets and key cases. This plan was implemented through the provision of Trade Adjustment financial assistance which facilitated the purchase of new equipment and raw materials and provided the working capital to hire additional workers.

By 1982, Dame's sales had reached $13,000,000 and employment was up to 225 people. By 1984, Dame had repaid its $1,000,000 trade adjustment assistance loan in full.

Allomatic Industries, Inc.
30-30 60th Street
Woodside, N. Y.

Product: Automotive Component Parts

In late 1982, Allomatic Industries finally was certified as being directly effected by imported automotive component parts. Two years earlier, Allomatic's petition was rejected on the grounds that imports of cars, not parts, were reducing the company's sales.

Allomatic requested trade adjustment assistance to evaluate and help implement its corporate strategy. The Metro New York TAAC helped Allomatic's management select a prestigious management consulting organization to conduct a comprehensive evaluation. The result of the study was a significant change in Allomatic's corporate strategy, identification of potential threats to successful implementation and the discovery of new opportunities for profits.

In the first full year after starting trade adjustment assistance, the firm increased sales 10% to $30mm, employment to 400 people, and profits by 90%. A followup productivity study is resulting in a $1mm annual cost avoidance and $3/4 mm inventory reduction.

De Francisci Machine Corporation
46-25 Metropolitan Avenue
Ridgewood, New York 11385

Product: Food Processing Equipment

The De Francisci Machine Corporation, the only remaining American company manufacturing complete lines of commercial pasta making equipment was certified eligible in December 1982 to apply for Trade Adjustment Assistance. A Metro New York TAAC diagnostic assessment revealed the need to develop a strategic business plan to correct manufacturing deficiences, pursue sales potential in foreign markets, address the need for improved financial/accounting controls and design a personnel system to improve organizational effectiveness and accountability.

The initial project engaged the services of an industrial engineering consultant to assist the firm to consolidate all manufacturing operations into a single facility. A detailed plant layout was developed that served as the basis for De Francisci's consolidation plan. A subsequent project resulted in enhancements to the firm's sales and marketing promotional materials. Current engagements include the design and implementation of systems for budgeting, standard cost accounting, and human resource development.

The firm has realized significant improvements in manufacturing efficiency and expects to reduce manufacturing costs 20%. This has been a prime factor in De Francisci's improved profit picture for the current fiscal year. However, since DeFrancisi's competition is completely foreign based, the company's cost competitiveness again is being eroded by the surging U.S. dollar. Trade adjustment assistance will focus on keeping the company competitive in the expectation that currency flucuations will eventually favor American producers.

Consulting Assistance

Consulting Services

TAAC consultants have expertise in various specialties including:

MARKETING
- Product Diversification Plans
- Market Feasibility Studies
- Advertising and Promotional Strategies
- New Market Research

MANUFACTURING
- Productivity Improvements
- Cost Control and Reductions
- Equipment and Facilities Planning
- Inventory and Material Controls

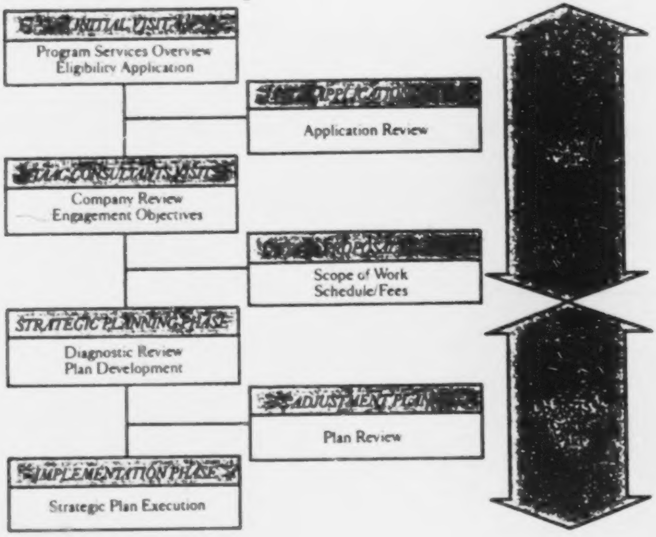
ENGINEERING
- Product Development
- Energy Management
- Time and Motion Studies
- Process Engineering

FINANCE
- Financial Restructuring
- Cash Flow Management
- Alternate Forms of Financing

ACCOUNTING
- Product Pricing
- Cost Accounting Systems

MANAGEMENT
- Organizational Analysis
- Management Information Systems
- Human Resources Management and Training
- Strategic Planning

Consulting Process


INITIAL VISIT
Program Services Overview
Eligibility Application
APPLICATION
Application Review
TAAC CONSULTANT'S VISIT
Company Review
Engagement Objectives
PROPOSAL
Scope of Work
Schedule/Fees
STRATEGIC PLANNING PHASE
Diagnostic Review
Plan Development
ADJUSTMENT PLAN
Plan Review
IMPLEMENTATION PHASE
Strategic Plan Execution

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ADJUSTMENT
ASSISTANCE
CENTER

Client Comments

“I entered into the TAAC program very reluctantly! I had negative feelings about the possibility of "the government" helping me.

I was entirely wrong. You have an excellent program to offer. Your people are superior. I would recommend anyone at least looking into your program. Thank you for helping us.”

Pioneer Heddle & Reed Co., Inc. — Atlanta, Georgia

“I was surpised to receive the high quality of assistance that we have been given.

Everything discussed and implemented has been done in an efficient and professional manner.”

Plastic Industries — Athens, Tennessee

“We anticipated a good program and good working relationships — that's what we got.

We are impressed with the TAAC people and their professionalism: It is unfortunate that you are not allowed to publicize your services.”

National Bedding & Furniture Co. — Memphis, Tennessee

“I feel this program is one of the most important government sponsored projects today. It like no other can aid the financial troubled industries being decimated by unfair competition of foreign imports.

I expected a fresh unbiased evaluation of our organization and its problems. I feel we did get just that.”

Wall Industries, Inc. — Elkin, North Carolina

“The (project) team had a thorough knowledge of the apparel needle trade!”

Pennshire Shirt Corporation — Wadley, Alabama

“Southeastern TAAC has given our marketing program better awareness and insight into the future growth potential of our business.

Your personnel has given us a boost when everyone else including local bankers had pushed our business to the lowest ebb since we were founded.”

Truluck Vineyards — Lake City, South Carolina

“TAAC's performance was outstanding in all aspects of our program.”

Tennessee Textiles, Inc. — Jackson, Tennessee

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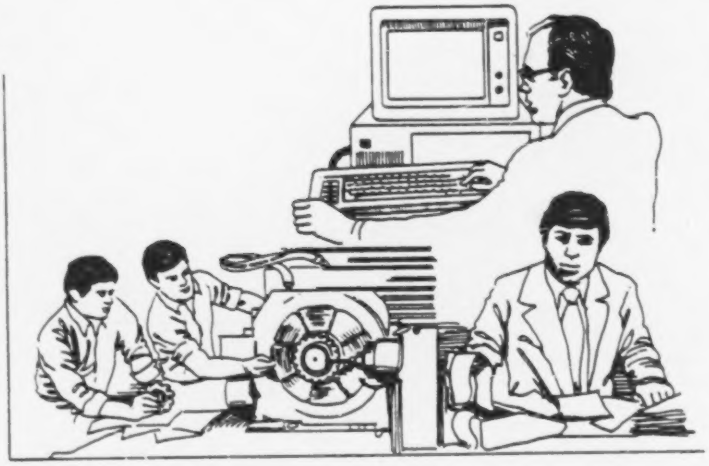
Engagement Summaries



INDUSTRY AND CONSULTING EXPERIENCE.

The Engagement Summaries are brief outlines of representative Southeastern TAAC client projects. The summaries are organized by industry and nature of consulting work performed.

Most consulting engagements are performed entirely by Southeastern TAAC's specialized consultants, while others are performed in conjunction with consulting firms who provide additional expertise on the projects.

The Engagement Summaries reflect the flexibility of the Southeastern TAAC consulting process to address a wide variety of critical problems and opportunities of individual client firms regardless of industry.

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Apparel
Management Information Systems

BACKGROUND AND SITUATION
The company was founded in 1946. By 1978, the company manufactured and sold a full range of separate and coordinated knitwear items, sales reached $16 million, and employment had increased to over 600 workers. The company sold to major chains and discount stores.

As import competition increased in the chain and discount areas of the women's knit sportswear market, the company developed a marketing strategy to compete in the high-end women's knitwear market by upgrading the style, design and fabric of its products. By 1982, the company had successfully implemented its marketing strategy – sales increased to $18 million and profitability remained excellent.

The new marketing strategy, though very successful, had seriously affected the company's ability to deliver orders complete and on-time, causing customer dissatisfaction and hurting the company's good reputation. The company requested technical assistance from Southeastern TAAC in designing and implementing a fully integrated management information system to coordinate the marketing and manufacturing operations.

ASSISTANCE AND RESULTS
Consulting assistance was performed by a highly qualified computer systems firm contracted by Southeastern TAAC. The firm completed a systems analysis and systems design to integrate the entire manufacturing process from order entry through invoicing after shipment.

The computer systems firm is currently in the process of implementing the design and integrating it with the company's financial and accounting systems to provide a fully integrated MIS to enable the company to coordinate the marketing and manufacturing functions and to improve on-time and complete delivery.

Apparel
Manufacturing Productivity

BACKGROUND AND SITUATION
This medium sized firm engages in the manufacturing, selling, and distribution of men's, womens, and children's active sportswear in both knit and woven fabrics. Its products are sold nationally to specialty stores, department stores, and discount chains. Its product line in the past included sleepwear and underwear.

The firm began to experience serious competition from Far Eastern produced underwear and sleepwear. To combat this situation, the firm developed a business strategy to reposition its product line to include higher priced and more fashion-oriented activewear. The firm was able to significantly increase sales, but was not able to generate adequate profit performance due to continued import competition.

ASSISTANCE AND RESULTS
Since the firm could not raise prices, it was forced to focus on manufacturing cost reductions as a means of restoring acceptable profit levels. The Southeastern TAAC identified several opportunities to reduce costs. To improve profitability, the Southeastern TAAC recommended the installation of a fully integrated production control system; the re-engineering of the sewing room to include updatedpiece rates and cost reporting procedures; a change in plant layout; and supervisory training.

Implementation of the recommendations has been successful resulting in a savings in excess of $100,000 annually, and providing 200 additional jobs through plant expansion.

Electrical Equipment
Marketing Planning

BACKGROUND AND SITUATION
The firm manufactures a line of automatic door operators for swinging and sliding doors. The products are marketed nationally through a network of 400 dealers who provide sales, installation and service.

Within a period of one year, two foreign manufacturers of automatic door operators began marketing their product lines in the United States. One of them purchased the domestic firm's largest distributor and caused an almost instantaneous 22 percent decline in sales volume. At the beginning of the project the firm's annual sales were about $3 million and it employed 62 people.

ASSISTANCE AND RESULTS
The Southeastern TAAC in conjunction with private consultants performed a diagnostic analysis which revealed the firm's marketing strategy was not well defined. A comprehensive marketing study was performed and problem areas identified. A business plan which addressed the firm's problems was developed and implemented.

The firm has made significant strides in recapturing its market share and continues to be a strong competitor. At the completion of the project, sales had risen well above $3 million and management indicated that morale among employees had never been higher.

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Engagement Summaries

Footwear

Financial Assistance

BACKGROUND AND SITUATION
The company was founded in 1971 to manufacture primarily canvas type basketball shoes and other casual and athletic footwear. By 1976, sales reached almost $6 million and employment exceeded 260 people. The firm marketed its products mainly as a contractor for other manufacturers with the balance of its production sold to discounters.

In 1977, imported nylon and vinyl jogging shoes became very popular and the firm's market for basketball and canvas shoes declined substantially. Sales declined over $1.5 million and employment dropped over 40 percent from the previous year. The company did not have the production equipment to manufacture competitive nylon and vinyl jogging shoes nor the capital to purchase the equipment.

In 1977, the company requested help from the Trade Adjustment Assistance Program to develop a strategy to overcome the problems of foreign competition. Consultants, together with the company, developed a marketing, production and financial plan to enable the firm to obtain technical and financial assistance to implement its recovery plan.

ASSISTANCE AND RESULTS
Consulting assistance was initiated to develop and implement a new marketing strategy and to provide on-site industrial engineering to restructure work measurement standards and install machinery productivity aids. Financial assistance through a guaranteed/direct loan was approved for $1.75 million, to supply working capital for the new marketing strategy and to purchase new equipment for the production of competitive products.

As a result of the engineering and equipment purchases, manufacturing costs were reduced by 15%. Sales in 1981 increased to $16 million and employment increased to over 600 workers.

Handbags & Leather Goods

Manufacturing Productivity
Marketing Planning

BACKGROUND AND SITUATION
This manufacturer produces ladies' handbags sold through finer department and specialty stores in the United States and Canada under a designer label franchise agreement. The company employs about 100 workers and sales average approximately $4 million annually.

When the Southeastern TAAC was contacted, sales had declined and losses incurred due to many interrelated problems among sales, manufacturing and finance.

ASSISTANCE AND RESULTS
In manufacturing, short production runs and the lack of incentive systems presented longer-term efficiency problems as sales increased. Programs were implemented to install an appropriate incentive system, reduce manufacturing costs and assist in the development of long term capital equipment needs.

Marketing assistance was also provided, to support the firm in developing a marketing planning process.

After implementing many of the Southeastern TAAC's recommendations, the company increased its sales and regained profitability. The company was purchased from the parent organization by a group of four operating executives and an outside investor. The unprofitable luggage line was dropped and sales are expected to double by 1986.

Hardwood Dimension

Production Controls
Marketing Planning

BACKGROUND AND SITUATION
This Southeastern firm has produced dimensioned components for furniture and equipment manufacturers for nearly a century. The company's 70 employees now produce annual sales of about $2 million. The major product line is knocked-down chairs but other furniture and equipment parts generate a significant share of the firm's output. From their location in the center of the U.S. hardwood forests, the company serves major furniture producers in North Carolina, Virginia and Tennessee as well as clients throughout the U.S.

As a result of weak production controls, the firm suffered delivery and quality problems and had a history of poor material utilization. Additionally, the firm had excess investment in inventory and weak inventory management practices. The firm's major product line was sold to only two customers and was vulnerable to import competition.

ASSISTANCE AND RESULTS
The Southeastern TAAC provided a strategic business plan which helped the firm overcome its market restraints and operating weaknesses. The company reduced its dependence on knocked-down chairs; diversified out of the hardwood dimension industry through backward integration; achieved operating efficiencies through material yield improvements and an inventory control system; improved its marketing program through a quality control system; and achieved better production control to meet delivery schedules.

The company accomplished these objectives, and reduced returns and late deliveries by nearly 70%. A timber management and logging operation has been initiated on previously idle land. The firm has also lowered costs by over 15% as a result of material yield improvements and increased its overall sales volume.

SOUTHEASTERN
TAAC
TRADE
ADJUSTMENT

Injection Molding

Market Analysis
Production Planning

BACKGROUND AND SITUATION
This company is an injection molder, with sales in excess of $9 million. The firm produces a broad range of injection molded products including trim parts for upholstered furniture, saddle trees, kitchen cabinet doors and drawer fronts, material handling trays, and white-water kayaks. The company exhibited a number of internal, manufacturing problems. Specifically, the company's bulk chemical receiving, molding facilities and finishing facilities were not centralized, leading to manufacturing inefficiencies. In addition, some of the firm's molding equipment and finishing equipment were out-moded.

The company's major line of business is trim parts and furniture leg assemblies. These markets have been seriously impacted by increased import competition.

ASSISTANCE AND RESULTS
Engineering consulting services were provided to determine the feasibility of consolidating all bulk chemical receiving, molding and finishing operations. The Southeastern TAAC also evaluated the costs of modifying existing molding equipment by improving controls and adding new molding and finishing operations. Also, a marketing study was performed to quantify market potential for a line of protective clothing produced by a company which the client firm had identified as an acquisition candidate.

Industrial Equipment

Manufacturing Productivity
Product Development

BACKGROUND AND SITUATION
The firm manufactures materials handling equipment. Major products include a line of manual hydraulic pallet trucks and a line of electric powered personnel and burden carriers. The firm sells through a network of distributors to all types of manufacturing, warehousing, retail, and service companies. Its markets are primarily in the east and midwest.

Penetration into the pallet truck market by imports has been severe in recent years. Although the quality of most of the imported products is inferior, the imports are often priced significantly lower than the firm's products.

ASSISTANCE AND RESULTS
The firm along with consultants from the Southeastern TAAC developed a five-year strategy that included developing a lighter, lower-cost pallet truck; expanding the firm's dealer network; developing material and labor standards, and a variable budget of expenses; installing an MRP system; and revising the plant layout.

As a result of these efforts, a new pallet truck designed to compete with imports has been introduced and currently accounts for 60 percent of sales. The plant layout has been revised and overhead conveyors and pallet racks have been installed. New production standards indicate that labor savings of about 40 percent are attainable in the updated facility.

Through the efforts of the firm's management and with help from Southeastern TAAC, the firm is now successfully competing with imports in the light-duty pallet truck market. Sales are up 40 percent and employment is up by 38 percent. Management is optimistic about the future, and they are confident that the firm will remain competitive with imports.

Industrial Fasteners

Manufacturing Systems
Marketing Research

BACKGROUND AND SITUATION
The company manufactures and distributes industrial fasteners. It employs 74 people and has annual sales in excess of $5 million. The product line includes bolts, nuts, screws, nails, rivets and washers which they distribute primarily to original equipment manufacturers throughout the Southeastern United States.

The company's current manufactured products are primarily cold-headed screws about one-half of which are "standards," sizes common throughout the industry, and the other half are "specials," made to customer specifications.

The market for "standard" industrial fasteners has been severely impacted by imports, forcing greater dependence on custom manufacturing. Additionally, the company required a manufacturing control system for measurement and control of its production.

ASSISTANCE AND RESULTS
Following a thorough review of the company and its operation, consultants were engaged to implement the recommendations in manufacturing and marketing. Manufacturing systems for cost accounting, inventory management and production scheduling were designed and implemented. These systems are fully integrated with the company's existing accounting and distribution systems. New fastener markets were investigated and potential products and customers were identified. These actions will increase the company's internal control and expand its opportunities in the marketplace.

SOUTHEASTERN
TAAC
TRADE
ADJUSTMENT

Textiles
Training

BACKGROUND AND SITUATION
This long time textile manufacturer is a producer of cotton and synthetic spun yarns for use in apparel and upholstery fabrics. The firm had sales and employment exceeding $15 million and 500 persons, respectively.

The firm was successful until the mid - 70's when the economic recession and imports began to errode its profitability. The firm was faced with the need to reduce its manufacturing costs to improve its operating margins.

The Southeastern TAAC's evaluation indicated numerous problems relating to labor productivity. As a result, Southeastern TAAC recommended that a training program be designed and implemented for all production and supervisory personnel.

ASSISTANCE AND RESULTS
The training program began with a job analysis to determine the most efficient work methods. Critical techniques (e.g., performance feedback) which lead to performance improvement were identified and taught to supervisors. These Performance Management (PM) techniques were then implemented in daily operation. The technique of using performance feedback was enhanced by financial gains tied to the ongoing incentive system.

Results of the program included an estimated annual savings of $450,000 along with an improved working relationship between management and operators.

Textile Machinery
Product Engineering

BACKGROUND AND SITUATION
The firm is a manufacturer of textile machinery and replacement parts. Its primary product lines include textile yarn preparation equipment and miscellaneous textile equipment repair parts. The firm is an OEM manufacturer and serves the entire domestic textile industry. This firm was formally part of a large conglomerate which had not adequately supported product development.

In the past, textile equipment was predominantly built by domestic manufacturers but is now largely made abroad. This shift resulted in this company's losing virtually all of its OEM supplier business. It also gradually lost its replacement business as domestically made looms were being phased out, forcing U.S. textile mills to buy replacement accessories from foreign manufacturers.

ASSISTANCE AND RESULTS
The Southeastern TAAC performed a thorough evaluation of the firm's situation. Following the recommendations made by the Southeastern TAAC, the firm embarked upon a quality and scheduling improvement program. New personnel have been added to direct this effort and to further define new equipment and repair parts markets. Engineering design is being completed on new high technology machinery.

The firm is now positioned to make substantial gains in its markets and should be able to effectively compete with its foreign competitors.

Wood Furniture
Strategic Planning

BACKGROUND AND SITUATION
This furniture manufacturer produces a line of popular-priced wooden dinettes and serves a regional market in the South-Central United States. The firm has the problem of operating a highly specialized furniture plant capable of producing only a limited variety of table and chair styles.

Imports of dinettes had been increasing at a faster rate than domestic shipments, hurting the firm's sales and representing a serious threat to its future. Prior to the entry of foreign dinette manufacturers in the U.S. market, the firm had automated its plant to become very efficient in the production of wooden furniture. The cost advantage which the firm historically had enjoyed due to its production efficiencies was lost to foreign manufacturers. These manufacturers mass produce furniture parts in overseas plants many times the size of the firm's plant and then ship the "knock-down" parts to the United States for final assembly in plants strategically located close to the major dining furniture markets.

ASSISTANCE AND RESULTS
Southeastern TAAC engaged a major consulting firm to research the wooden dinette market and to assist the firm in developing a strategic business plan.

As a result of the extensive market study, the consultants outlined a business strategy for the firm and recommended the dinette manufacturer: build on its extremely loyal customer base by expanding sales to current dealers; improve table and case goods offering by including a greater variety of styles; become a service oriented company dedicated to in-stock delivery and other dealer responsive programs; become an important source to dealers by expanding upward from "dinettes" to the "dining room furniture" segment of the market; generate business from larger accounts by having a more diversified product line; and establish a new manufacturing facility capable of producing a wide variety of tables and case goods while retaining the existing plant as a highly automated chair production facility.

SOUTHEASTERN
TAAC
TRADE
ADJUSTMENT

HARMONY METAL
Box 774 or 6325 Arapahoe
Boulder Colorado 80306
Tel. (303)-449-1205

February 15, 1985

The President
The White House
Washington, D.C. 20500

Dear President Reagan:

I am writing as a manufacturer to express my strong support for the Trade Adjustment Assistance program. I am speaking from direct experience as a president of a business whose sales and profits have seriously declined in recent years, due largely to foreign competition.

Because of the losses that we have suffered, it has been impossible to budget for new product development, expert counsel and other reorganization tactics necessary to turn the business in a profitable direction. Consequently, the downward spiral of layoffs and increasing losses seemed beyond our control until the Rocky Mountain TAAC became involved.

We have already initiated a number of steps utilizing TAAC's valuable assistance, which seems to have turned us toward a profitable year end. These steps are being taken in the strength and understanding of having TAAC's very professional guidance and support over the next two years. Thanks to this program, our internal confidence and commitment as well as that of local lending institutions has been greatly increased in regards to our continued growth.

Remarkably, from the taxpayers point of view, all of this has been initiated at [redacted] increased efforts because of the strong sense of support. [redacted]

I urge you to support the TAAC program.

Sincerely,

Gregory Hoag

Gregory Hoag
President

DIA-COMPE

DIA-COMPE, INC.
CANE CREEK ROAD
P. O. BOX 793
FLETCHER, NORTH CAROLINA 28732
TELEPHONE 704 684-3551

February 7, 1985

The Honorable William Hendon
415 Cannon House Office Building
Washington, D.C. 20515

Dear Bill:

Our little company has just been certified under the Trade Adjustment Assistance Program of the Department of Commerce. In fact, our certification from the Department of Commerce arrived in yesterday's morning mail.

To confirm and justify the worthiness of this certification is not the purpose of this letter. Suffice to say that the bicycle industry of the United States in general and small bicycle part manufacturers like us in particular are being devastated by an unprecedented and, we feel, unfair influx of foreign bikes and parts, principally from Taiwan. With that point established, let me say that the main reason for this letter is to respectfully request your support for the continuation of the TAAP program. To a small, struggling, severely import impacted company like ours this program offers the possibility of high quality, affordable assistance in our efforts to find the means for salvation. We know all about Federal budget problems. We also know, however, that the total cost of the TAAP program, nationwide, is miniscule. [redacted]

Your support for the continuation of TAAP would be deeply appreciated.

Yours very truly,

Bob

Robert A. Clarke
President

RAC/mm

Developing ideas
to quality products

PLASTIC INDUSTRIES, INC., PO Box 609 Athens Tennessee 37303 (615) 745-2652

February 15,1985

Honorable Sam Gibbons
Chairman
House Subcommittee on Trade
111 Longworth House Office Building
Washington, D. C. 20515

Dear Congressman Gibbons:

As one of many companies that has been hurt by imports over the last several years, I would like to voice my support for the Trade Adjustment Assistance Program of the Department of Commerce.

Our company was heavily penalized due to the unchecked, large scale importation of wooden furniture parts from Taiwan. As a result of the damage inflicted on us by these imports, we made application for assistance to the Southeastern Trade Adjustment Assistance Center at the Georgia Institute of Technology.

The government's share of assistance provided to Plastic Industries is less than $100,000 [redacted]

I a[redacted]

I understand the program which was partly responsible for our participation in the recovery has been eliminated from the federal budget. I support the Trade Adjustment Assistance Program completely, and urge you to re-fund this very worthwhile federal program. It is a perfect example of a partnership between government and industry which is truly beneficial to both parties.

Very truly yours,

PLASTIC INDUSTRIES, INC.

Dan Fisher
Financial Vice President

DF:rm

BRUSH
INDUSTRIES INC.

Third and Reagan Streets (P.O. Box 838)
Sunbury, Pennsylvania 17801
Telephone: 800-233-0362, 717-286-5611
TWX: 510-655-0222

RICHARD A. LITTLE
PRESIDENT

February 19, 1985

The Honorable Arlen Specter
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Specter:

I am writing this letter because of the discussion in the nation's capital about the possible elimination of the Small Business Administration.

Brush Industries is a small company located in Sunbury, Pennsylvania. At the start of 1984 we employed sixty-five people and were doing less than two million dollars in business. [redacted] two programs administered by the Small Business Administration.

One of these programs was [redacted] The second program was administered by the Small Business Development Center at Bucknell University. This program is continuing to aid us in developing new products and improve our existing products.

I believe these type programs serve an important role in our economy and from our experience they do create jobs, insure job security for existing workers and play an important role in our local community.

As you are aware Senator Specter we live in an area which desperately needs employment and I can say emphatically that these programs of the Small Business Administration have aided in creating new jobs for Sunbury, Pennsylvania.

Very truly yours,

Rich Little

Richard A. Little
President

L/b

CHAR & SHER
DESIGNS
INC.
P.O. Box 427
Tesuque, NM 87574 505-455-2264-2265

FEB 1

February 12, 1985

Senator Pete Domenici
Federal Bldg.
U. S. Post Office
Santa Fe, NM 87501

Dear Sir:

We are a recipient of TAAC (Trade Adjustment Assistance Center) funds. We appreciate it very much and find it is really working for us.

Sincerely,
CHAR & SHER DESIGNS

Char B. de Vazquez
President

CBdV:pf

cc: Constance Petersen

Stylite

Quality Service Since 1973

February 6, 1985

The Honorable William L. Armstrong
United States Senate
Washington, D.C. 20510

My Dear Senator,

The technical assistance provided by the International Trade Administration through the RM/TAAC office in Boulder, Colorado has been [redacted] I hope that Congress will continue to seek funding for the continuance of this program.

If it will serve any purpose to provide testimony to Congress in regard to the benefit of the program to small businesses like ours, please call on us to do so.

Very truly yours,

Benjamin C. Parungo
President

4655 Colorado Blvd.• P.O. Box 7176 • Denver, CO • (303) 399-2165

ALTRA Inc.
5541 Central Ave.
Boulder, Colorado 80301

303 - 449-2401

Sewing Kits for Active People

ALTRA

February 21, 1985

The President
The White House
Washington, D.C. 20500

Dear President Reagan:

My company and I have [redacted] In addition, with the help of TAAC, we are instituting several programs, and taking calculated steps that in the long run will not only save my company, but also will create more new jobs for willing Americans.

I urge you to maintain the TAAC program and even to expand its scope. If you believe in free trade, then you should certainly support the TAAC program which is not protectionist, nor does it subsidize inefficiency, but instead helps us to compete legitimately on an international basis.

[redacted] to tell you firsthand how strongly I believe that this is one of the best programs for American small business.

Sincerely,

Jonathan M. Hinebauch
President

Telephones: (717) 457-5416, 457-5417, 457-5418, 457-5419

Brook Manufacturing Company, Inc.
Manufacturers of Trousers
First and Miles Streets
Old Forge, Pennsylvania
18518-0036

February 19, 1985

CERTIFIED MAIL #P 622 614 317
RETURN RECEIPT REQUESTED

The Honorable Joseph M. McDade
2370 Rayburn Office Bldg.
Washington, D. C. 20515

COPY

My Dear Congressman McDade:

We have petitioned the Office of Trade Adjustment Assistance of the International Trade Administration for certification of eligibility for Trade Adjustment Assistance under the Trade Act of 1974.

It is our understanding that debate is about to begin concerning the renewal of that piece of legislation. We [redacted]

We strongly urge you to join us in supporting the continuance of Trade Adjustment Assistance.

Sincerely,

BROOK MANUFACTURING CO., INC.

Robert Pell
President

RP:sc

WELDON

WELDON MACHINE TOOL, INC. 1800 West King Street, York, PA 17404 • 717/846-4000

February 19, 1985

Senator H. John Heinz III
469 Russell Senate Office Building
Washington, D.C. 20510

re Trade Act of 1974

Dear Senator Heinz:

I understand that the Trade Act of 1974 is coming before Congress for renewal.

We are currently investigating the Trade Assistance program and have petitioned for assistance through this program. Being in the machine tool business, we [redacted]

I encourage you to support the renewal of this act in hopes that it might be one of the solutions which we need for renewed vigor in our business.

Thank you for your consideration.

Sincerely yours,

WELDON MACHINE TOOL, INC.

James D. Flinchbaugh
President

/wf

pc Steve Wasserman
Trade Assistance Center

Jonbil inc.
P. O. BOX 37 CHASE CITY, VIRGINIA 23924 (804) 372-3181

February 15, 1985

Honorable Dan Daniel
House of Representatives
Washington, D.C. 20515

Dear Mr. Daniel:

We are in the apparel business here in Chase City and have been for 20 years. We have been successful for the past 19 years but recently we are being battered by imports.

We have submitted an application through the Trade Adjustment Assistance Center for assistance. They have visited our facility and made a brief survey, and we are confident that the application will be approved.

It would be in our best interest to see the Trade Act 72 extended when it comes up for renewal later this year. [redacted]

~~We have worked up to and in excess of 900~~ people. We are now down to under 700 and those remaining are working on a very staggered basis. In other words they are not working a full week. If this industry is lost because of imports, it would put an extreme hardship on the people in Mecklenburg County and we ask that you support us in this endeavor.

Sincerely,

J. T. Coleman

John T. Coleman
Vice President - Finance

JTC:wbj

AMERICAN
AIRCRAFT INC

4310 Rankin Lane NE Albuquerque NM 87107 TLX 660843
505-344-6366/345-8100 Sales Center 505-822-1419

January 31, 1985

The Honorable Pete V. Domenici
Federal Office Building & U.S. Court House
500 Gold Avenue SW
Albuquerque, NM 87102

Dear Senator Domenici:

During the past few months, we have had the opportunity of meeting with, and subsequently working with, a number of the people who staff the Rocky Mountain Trade Adjustment Assistance Center in Boulder, Colorado. Those very capable folks have greatly helped us through the process of obtaining certification for assistance under this program and are continuing with that aid while we formulate our adjustment plan.

Each of these people have been quite capable and have demonstrated an uncanny and rapid insight into the idiosyncrasies of our business.

We are certain that with the assistance of the TAAC organization, we will again result in this firm regaining its lead position in the industry.

I would, therefore ask that, in your very important role with the Appropriations Committee, that you look with favor upon this business oriented organization and assure the continuation of this extremely professional service.

Thank you for your consideration and our best wishes to you for your long and devoted contributions to this state and nation.

Sincerely,

J. Robert Shaw
Vice President

JRS:lr

SpeeCo

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15000 W. 44TH AVE. GOLDEN, COLORADO 80401
303-279-5544 303-279-5545 TOLL FREE U.S.A. 800-525-8322
TELEX SPEECO GLDN 910-934-0116

February 4, 1985

The Honorable Senator William L. Armstrong
United States Senate
Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Armstrong:

I would like to take this opportunity to communicate to you our appreciation for the Department of Commerce Trade Adjustment Assistance Program that was created for companies that were unfavorably impacted by Foreign Imports. We were certified approximately one year ago and have been working with the Rocky Mountain T.A.A.C. group in Boulder, Colo. in identifying a strategy for recovery and for long-term survival of our business.

They have been most helpful in assisting us in this regard and the financial support granted through [redacted]

On behalf of all of us at Special Products, we wish to extend our sincere thanks for this assistance, and ask that you please pass thanks along to those involved in administering the program.

Sincerely,

Michael K. Greenburg
President

MKG/psm

cc: Rocky Mountain T.A.A.C.
Senator Hart
Congressman Schaefer

TRADE ADJUSTMENT ASSISTANCE CENTER
RECEIVED
FEB 6 [illegible]

SPECIALTY PRODUCTS FOR FARM AND INDUSTRY

Hine/Snowbridge, Inc.

PO Box 4059 Boulder Colorado 80306
Ship to 4750 Nautilus Court South Boulder Colorado 80301
303/530-1530

February 7, 1985

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I would like to bring to your attention and comment on a program designed to assist businesses which have been impacted by foreign competition.

We are a manufacturer/distributer and for the last several years have had to lay off employees and have been unable to earn a profit due in large part to the impact of imported competitive products.

In May of 1984, t[redacted] of Colorado, I became aware for the first time of the (Rocky Mountain) Trade Adjustment Assistance Center (TAAC) which is operated by the University of Colorado under contract to the U.S. Department of Commerce. We immediately applied for assistance and were certified as eligible in September of 1984.

While our involvement with the TAAC is still in its initial stages [redacted]. There is little doubt in my mind that the TAAC will provide invaluable assistance to us as we struggle to become profitable again.

The TAAC program provides us with consulting services (we pay approximately 25% of the cost) designed to help us become competitive with imports and/or find other suitable things which we as a company can do to again provide and create domestic jobs and again become a profitable, tax paying business. Being a small company, the consulting services provided by the TAAC are giving us access to research, ideas, information and other valuable resources at an affordable cost which would otherwise be impossible for us to obtain.

I would like to take this opportunity to express my support for the TAAC program specifically and its concept in general. I feel that the program is structured in such a way as to provide a lot of positive impact in return for a small initial investment. In these times of rapid worldwide economic change it is necessary for us in this country to provide and create jobs based on sound economic merit which are internationally competitive and not subject to export. The TAAC program helps business in this

kirtland

PURSUIT

direction as it is not a program which subsidizes inefficiency or is protectionist in nature but instead is designed to help us legitimately compete, be more efficient and find other areas in which we can compete.

The TAAC program is also a self help program, not a give-away or hand-out arrangement. It helps us only in relation to the degree we are willing and able to help ourselves. Finally, the program is directed at businesses which as a group have the incentive and the ability to, with a little help, create and provide stable jobs in the quickest and soundest way. Citizens with sound long term jobs along with profitable companies pay taxes which quickly cover the cost of such a program.

In summary, I feel the TAAC program provides a sensible way of helping business and the country attain and maintain economic growth, stability, jobs and opportunity in an extremely cost effective way. I am thankful that such a program exists at a time when this company needs it and I have every confidence that our efforts along with the help of the TAAC will get us through our current hard times.

On a different topic, I am definitely a supporter of the concept of a simplified tax structure for this country -- one which would provide the revenue needed by government while raising it in a manor allowing business and individuals to make economic decisions based on their economic merit and not on their tax consequences -- while at the same time making the tax code easier and less expensive for everyone to understand and deal with. From my perspective there is no doubt the the current tax structure is vastly to complex, unfair to those who can't qualify for the hodgepodge of special deductions, credits and "loop holes", and far to expensive to implement. Simplification is long over due.

Sincerely,

Edward K. Hine, Jr.
President
HINE/SNOWBRIDGE, INC.

EKH:wp

RONNIE G. FLIPPO
5TH DISTRICT, ALABAMA

COUNTIES
COLBERT JACKSON
LAUDERDALE LAWRENCE
LIMESTONE MADISON
MORGAN

405 CANNON BUILDING
WASHINGTON, D.C. 20515

COMMITTEE
WAYS AND MEANS

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

February 11, 1985

Mr. Dennis Garrett
President
Ryan Manufacturing Co.
Route 1
Joppa, Alabama 35087

Dear Dennis:

I am deeply concerned over the impact foreign imports are having on Alabama industries. As a member of the Ways and Means Committee, with jurisdiction over international trade, I have sought to assure that the interests of Alabama industries are represented in the formulation of U.S. trade policy.

Although we have made considerable progress in developing overseas markets for Alabama products, many industries still face formidable barriers in accessing foreign markets. I am convinced that Alabama industries and Alabama workers can compete effectively in the world economy, if allowed to do so on a fair and equitable basis with other countries.

As efforts toward this goal continue, we must take steps to provide industries hard hit by imports with the necessary resources to fight back.

To help industries which have been adversely affected by foreign imports, [redacted] The program is designed to provide a wide range of services from market analysis to financial assistance for import-impacted companies. A brochure is enclosed.

I hope you will take this opportunity to contact the TAAC to determine if your company is eligible for assistance. Please feel free to contact me with your comments about this program.

Sincerely,

Ronnie G. Flippo

F:ma

Enclosure

Whitin Roberts Company

WR

February 11, 1985

The Honorable John P. East
716 Hart Office Building
Washington, D. C. 20510

Dear John:

The budget cutting process, with which this session of Congress is faced, will result in the elimination, curtailment or postponement of many undertakings some of which, if executed, would have great benefit to the American economy. [redacted] This is the Trade Adjustment Assistance Program which was designed to assist American manufacturers in combating the impact of foreign technology.

[redacted] in which my own company is involved.

After a very thorough study, it was established that assistance in our new technological development would protect jobs here in North Carolina, U.S.A. [redacted] which would have been lost if this new technology were not available to the American industry.

The question has been asked as to why American industry has not developed new technology. Obviously, many American industries have, indeed, provided new technology because their profit margin has provided the wherewithal to do so.

I can only speak for the American textile industry. This industry supplies machinery to the yarn making and garment making industry which, as you know, has been beset by import problems for many years. Their profit margins have been restricted which reflects in the prices we are able to get for our machinery now that our overseas capability is altogether absent. The strong dollar has seen to that.

Traditionally, the profit margin we have been able to obtain did not include sufficient nourishment for vast expenditures in Research and Development to bring new technology.

P. O. Box 30487 • Nations Ford Road • Charlotte, North Carolina 28230 • Telephone (704)588-1450
N.C. (800) 432-6601 • Interstate (800) 438-3348

February 11, 1985

On the other hand every European country, including some of the eastern block countries have had special incentives via tax programs, as well as outright grants to manufacturing firms in developing new and improved technology. It was only in the Internal Revenue Act of 1981 that an investment credit for Research and Development appeared in our own tax structure for the first time in our history. This has been commonplace in foreign countries.

Export incentives, also via tax credit, have been a means of encouragement in the earning of U. S. dollars by Europe in national, as well as eastern block countries.

This government cooperation on the continent and elsewhere has paid dividends. The Trade Adjustment Assistance Program is a first step, but it is a vital step.

Our trade deficit increased enormously between 1983 and 1984 and is projected to increase even further in 1985. Statistics will show that as many as 15 of our 20 major industries are now in payment inbalance. I don't know what the figures were 15 or 20 years ago, but if there were more than 2 or 3 of our major industries in trade inbalance, I should be surprised.

This is an alarming situation and it is not only the strong dollar which is causing it, technology is equally important.

It is my understanding the Trade Adjustment Assistance Program has an overall cost of approximately 25 million dollars which, in my opinion, is a small price to pay in relation to the permanent benefit which will ensue as a result of improved American technology.

Of course I have no way of knowing, but I suspect that the entire Trade Adjustment Assistance Program presently would equate to perhaps one military aircraft. In my humble opinion, I would rather spend the money on technology.

We all recognize the importance of the military end as a deterrent and as protection. It is equally important, however, to defend the American way of life. Technology provides the means to productivity and profitability. This means employment and tax revenue.

February 11, 1985

The Honorable John P. East
Page 3

[redacted]

Yours sincerely,

E. M. Kennedy
President

EMK/ybg

Copies sent to: The President

The Honorable Sam Gibbons
Chairman, House Subcommittee on Trade

The Honorable Neal Smith
Chairman, House Appropriations Subcommittee

The Honorable John C. Danforth
Chairman, Senate Subcommittee on Int. Trade

The Honorable Paul Laxalt
Chairman, Senate Appropriations Subcommittee

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February 5, 1985

The Honorable Sam Nunn
SD-303 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Mr. Nunn,

During the past several years, our comapny, a small manufacturer of inflated balls and bladders for the sporting goods industry, has been adversely affected by severe price cutting by Asian manufacturers.

[redacted]

I found it encouraging, as a small businessman, to know that there was someplace we could turn to when assaulted by foreign price cutting, which indicated that our government was not just sitting back, but actively helping those of us who were also willing to help themselves.

During the past year we sold our company to MacGregor Sporting Goods. Although foreign competition continues to plague us, we remain a viable enterprise. We are now the only manufacturer in the United States of school quality basketballs. All the others are now importing their entire ball lines.

I recommend that the Trade Adjustment Program be continued, so that others in our situation may find a helping hand when they are most in need.

Very truly yours,

Arthur J. Van Deventer
President

AJVD/gsp
cc: The President
The Honorable Sam Gibbons
The Honorable Neal Smith

THE GREATEST NAME IN SPORTS

**STERIDYNE
CORPORATION**

February 6, 1985

The Honorable Lawton Chiles
SR-250 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Chiles:

You may recall a few years ago that your office was instrumental in aiding Steridyne during our company's problem with a foreign based competitor who infringed our patents. Aside from the relief we won in the judiciary, we also applied for Trade Adjustment Assistance.

This letter, then, is written in support of the continuation of that program as administered by the U.S. Department of Commerce.

The result of our application for assistance was a $400,000 direct loan which we used primarily to construct our own manufacturing facility and secondarily for working capital. At the time of application, Steridyne was marginally profitable. Our new plant was completed in mid-1981.

As a direct result of the loan assistance package [redacted] have also aided the construction industry, as our plant was built by a local concern. Due to more efficient utilization and optimum design, we have lowered our cost of goods manufactured and thus increased margins without the necessity of raising prices. This in turn has had a non-inflationary effect and thus aided the overall economy.

The U.S. Department of Commerce has benefited inasmuch as they were able to loan us funds which were fully secured by the new plant and our other assets, essentially a risk-free transaction. They are earning interest at acceptable levels. Our loan is passively monitored, at minimum expense, by restrictive covenants and audited statements which must be submitted at intervals. Additionally, the company has generated earnings which result in income tax outflowing to the federal (and state) government. The effect ripples outward through our suppliers and customers.

For the reasons briefly outlined above, I would urge you to lend your support behind the upcoming vote I understand is pending in the

(cont.)

3725 INVESTMENT LANE • RIVIERA BEACH, FLORIDA 33404 • (305) 844-3486
TOLL FREE: 800-327-6185 • TELEX: 706090 STERIDYNE UD

Congress. This concerns continued Trade Adjustment Assistance funding. President Reagan appears firmly committed to private enterprise and its ability to survive and flourish using its own creative resources. We have found the Trade Adjustment Assistance program an effective way for this concept to work; the thorough and professional screening program we underwent prior to culmination of the package would testify to the selective nature of the concept.

Sincerely,

George W. Poncy, Jr.
President

GWP/cmc

ROM RHOME
MANAGEMENT CONSULTANT
SUITE 110 · 13231 CHAMPION FOREST DRIVE · HOUSTON, TEXAS 77069
713/537-0383

February 15, 1985

Hon. W.R. (Bill) Archer
1135 Longworth House Office Building
House of Representatives
United States Congress
Washington, D.C. 20515

Dear Bill:

REQUEST FOR CONTINUED FUNDING
OF THE OFFICE OF TRADE ADJUSTMENT ASSISTANCE
IN THE U.S. DEPARTMENT OF COMMERCE

I recall with a great deal of pleasure the visit in your office in Washington three years ago in company with John Scott of Phillips Petroleum. We discussed at that time and had subsequent correspondence regarding energy legislation and the Federal deficit.

Your overwhelming reelection to the House from our district last fall was a source of real satisfaction to me. Your excellent voting history, spotless record of attendance, and modest expenses - all of which were brought out in the campaign - undoubtedly figured heavily in the result. In my opinion you are a model congressman - with just the right balance between national and constituent interests.

Bill, today I am writing to you in your capacity as a member of the House Committee on Ways and Means and its Subcommittee on Trade.

In my work as a management consultant specializing in the chemical and plastics industry I have become aware of [redacted] the [redacted]

My immediate concern is that the Administration has requested recission by Congress of the 1985 funding of this agency. It has also been omitted from the Administration's 1986 budget. This action could not possibly have been taken at a worse time - when the grossly overvalued dollar is causing an unprecedented trade imbalance and tragic loss of jobs and domestic small businesses to import competition.

[redacted]

Hon. W.R. (Bill) Archer
February 15, 1985
Page Two

[redacted]

My direct involvement with the OTAA concerns its assistance to plastic processors which have been damaged or forced into bankruptcy by the flood of cheap imports - primarily from the Far East. With proper assistance, the damaged domestic business can be redirected into other growth areas of this industry, such as components for computers, office equipment, health care, etc., thus ensuring the survival of these companies and their employment rolls.

According to the 1982 Census, Texas now ranks first among the states in new capital expenditures for the plastics industry (exceeding half a billion dollars). In Texas this industry has approximately 1,000 establishments with over 35,000 employees. Its value of shipments exceeds $6 billion.

There are several reasons why continued growth of the plastics industry is crucial to Texas at this time.

1. The whole petrochemical derivative industry converts the BTU's in our oil and gas into useful products as opposed to burning them as fuel. The value added is incomparably greater.
2. For years our plastic raw materials produced in Texas were almost entirely shipped to the North, West, and East. But dozens of new companies which turn these materials into end products are springing up in Texas.
3. With the current decline in the price of crude and natural gas, our state must diversify away from its dependence upon the primary production of energy. Our new plastic processing industry in Texas is one of the most favorable developments in this regard.

The OTAA helps many fledgling companies just getting started whose proprietary products have been displaced by imports. The beneficial effects of saving these enterprises to both government and industry are compounded many-fold.

We hope that your Committee will see fit to support the continued funding of this inexpensive and constructive program.

Thank you for your consideration.

Yours very truly,

Rom Rhome

**BURKE
MANUFACTURING
COMPANY, INC.**

PHONE (404) 554-2151

• P. O. BOX 613
• WAYNESBORO, GA.
30830

February 13, 1985

Honorable Lindsey Thomas
United States House of Representative
427 CHOB
Washington, D.C. 20515

Dear Congressman Thomas:

I am writing to you concerning Rescission - #R-8560A which is currently before the House Appropriations Committee. The purpose of this rescission is to rescind funds already appropriated to the Trade Adjustment Program.

[redacted], especially those in the apparel and textile manufacturing business, that have been so badly hurt by the huge amounts of imports pouring into the country.

Anything you can do to help defeat this rescission will be greatly appreciated.

Most sincerely,
BURKE MANUFACTURING CO., INC.

Jack J. Steinberg

Jack J. Steinberg,
President

NORTHWEST FOUNDRY

Division of Moore Clear Co.

503-235-8581

NORTHWEST
FEB 22.
TAAC

February 15, 1985

The Honorable Ron Wyden
United States House of Representatives
1406 Longworth Bldg.
Washington, D.C. 20515

Dear Mr. Wyden:

The [redacted]. During the past two years we have been working with NW T.A.A.C. (Northwest Trade Adjustment Assistance Center) developing a strategic plan and have now received approval to conduct, with outside consultants, marketing and productivity projects.

We are sure that these projects will generate the permanent improvements that this company needs to return its sales to former levels and increase our employment from the present 65 to the former level of 115 people.

The T.A.A.P. program fits in very well with a free enterprise system, allowing companies to improve their market and sales positions with substantial effort on their own part.

Without the program we would have been unable to carry out this work due to lack of finances and expertise.

Truly yours,

NORTHWEST FOUNDRY

Kenneth J. Bush

Kenneth J. Bush
President

Roger F. Molsom

Roger F. Molsom
General Manager

lmf

cc- Bill Jeske, NW T.A.A.C.

Mailing Address:
P.O. Box 42248 • Portland, Oregon 97242

Street Address:
2345 S.E. Gladstone Street • Portland, Oregon

A replica of this letter was sent to the following people:

Les Aucoin
Denny Smith
Bob Packwood
Mark Hatfield
Paul Laxalt
The President of the United States
Sam Gibbons
Neal Smith

NATIONAL DIMENSION MANUFACTURERS ASSOCIATION
101 Village Parkway, Suite 202 • Marietta, Georgia 30067 • (404) 953-2242

Manufacturers of Quality Wood Component Products Since 1929

Steven V. Losser
Executive Director

February 12, 1985

The Honorable Sam Gibbons
Chairman, House Subcommittee on Trade
111 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Gibbons:

I am writing you on behalf of the U.S. woodworking industry who has been suffering from the adverse effects of a dramatic increase in imports of foreign made furniture, cabinets and component parts.

According to U.S. Department of Commerce figures, imports of household furniture items continued to increase at a significant rate during 1984. Furniture imports were up by an alarming 45 percent during the first six months of 1984 compared to the same period in 1983. Imported household furniture reached the $2 billion mark in 1984, representing a 25 percent compounded annual increase from 1979. Meanwhile, exports of U.S. produced household furniture dropped 4.4 percent on an annual basis during the first six months of 1984 and have continued to fall by a 9.2 percent annual rate between 1981 and 1984. Household furniture exports totaled a meager $195 million in 1984.

Imports dominated the industry news in 1983 and 1984, prompting Congress to ask the U.S. International Trade Commission to undertake a competitive assessment of the domestic upholstered and wood household furniture industries. A report was prepared by the ITC and submitted to the House Subcommittee on Trade in June of 1984. The report documents that the U.S. wood furniture manufacturing industry is losing ground to foreign competitors in both domestic and export markets. The report cites several reasons for our huge trade deficit in the U.S. woodworking industry which include significant labor cost differences, foreign government regulations and subsidies that favor their manufacturers and unequal tariff treatments.

Policies of foreign governments, particularly those in the Far East, reportedly give financial and special tax incentives to furniture and other companies who employ large numbers of workers and are export oriented. Current tariff schedules indicate that the rates of duty on imports of household furniture into the U.S. are substantially lower than similar rates of our major trading partners. For example, U.S. rates of duty on wood furniture are only 3.1 percent ad valorem. However, tariff duties assessed on U.S. exports of wooden furniture are 16.9 percent in Canada; 20 percent in Yugoslavia; and 100 percent ad valorem in Taiwan. To make matters even worse, we allow a significant amount of imported furniture and component parts to enter U.S. markets duty free under the provisions of the Generalized System of Preference (GSP) Program. It's no wonder we have a huge and growing trade deficit in the U.S. woodworking industry and other U.S. manufacturing industries as well.

The Honorable Sam Gibbons
February 12, 1985
Page 2

In an attempt to do something about our growing problem with imports, representatives from 15 different wood product trade associations joined together to conduct a comprehensive analysis of the U.S. wood products industry and develop strategies to assist U.S. wood product manufacturers to become more competitive with foreign competitors in both domestic and export markets. A copy of our final summary report of all projects conducted under this industry-wide effort is enclosed.

This industry-wide project was made possible under a cooperative agreement with the Office of Trade Adjustment Assistance (OTAA) within the International Trade Administration of the Department of Commerce. The Office of Trade Adjustment Assistance administers a program authorized by Sec. 265 of the Trade Act of 1974. This program provides useful technical assistance to help import-injured industries become more competitive with foreign producers. We feel that the technical assistance received under our industry-wide project was extremely beneficial and will allow many U.S. woodworking firms to implement several new ideas and production techniques that will make them much more competitive with their foriegn counterparts.

[redacted]

Therefore, we strongly urge you to show your support for the Trade Adjustment Assistance Program by voting to deny the request for recision order No. R-85-60A. We also urge you to support an ammendment to extend the Trade Act of 1974 to authorize the continuance of this valuable program in FY'86 and several years to come until we can solve our huge and growing trade deficit problem.

Thank you for your consideration in this important matter to our industry.

Sincerely,

Steven V. Losser

Steven V. Losser

SVL/kl

Enclosure

Midwest
Trade Adjustment Assistance Center

Applied Strategies International, Ltd.
150 North Wacker Drive
Chicago, Illinois 60606
(312) 368-4600

February 27, 1985

Mr. Harold Williams
Industrial Policy Council
733 15th Street, N.W.
Suite 917
Washington, DC 20005

Dear Hal:

Enclosed are several successful case histories of firms that have been involved with the Midwest TAAC. Although all of them did not complete the program, that is, they did not get to the point of an adjustment proposal, the firm and the TAAC still consider the TAAC's efforts a success. For some firms, only going through the diagnostic portion of the program provides them with an outside, objective view of their firm and points out problems or directions the firm should take that may have been overlooked.

Since time is of the essence, we wrote the case histories and contacted each of the firms by phone and read them the narrative. They all agreed that we could use what we had written.

In order to keep the information business confidential, the names of the firms will only appear in this cover letter. The case histories are:

1. Dumore Corporation of Racine, Wisconsin
2. Neely Manufacturing Company of Corydon, Iowa
3. L&W Engineering Company of Bellville, Michigan
4. Automatic Screw Machine Products of Hinsdale, Illinois
5. Plasco, Inc. of Gurnee, Illinois
6. Reproduction Technologies, Inc. of Bristol, Indiana
7. Wilbrecht Electronics of St. Paul, Minnesota
8. Unable to contact at present.

Sincerely,

Marshall Shuster

Marshall Shuster

MS:ls

Encl.

MID-AMERICA
TAAC

Trade Adjustment Assistance Center
300 S. Rodney Parham Road, Suite 9
Little Rock, Arkansas 72205
501/224-6184

February 28, 1985

Mr. Harold W. Williams
Industrial Policy Council
Suite 917
733 15th Street, NW
Washington, D.C. 20005

Dear Hal:

Enclosed are four synopses of recent success stories resulting from Trade Adjustment Assistance, provided by Mid-America TAAC.

If you need additional information, please call.

Sincerely,

Mildred Holley

Mildred Holley
Assistant Director

MH/lbj

Enclosures

Mr. **Frenzel**. For the other two witnesses, Mr. Powderly and Mr. Warden, your friend, Mr. Powderly, the chap from the Department of Labor, earlier testified, and our chairman said, hey, those figures are no good. Do you have other figures that would give us an idea? Do you subscribe to the chairman's statement about the Department of Labor's numbers? I have forgotten anymore what they were.

Mr. **Powderly**. He said there were only 10 percent of the people who went through it.

Mr. **Frenzel**. I think it was 17, but—well, anyway, let's use 10, whatever it is. Do you have some other figures that would be advisory for the subcommittee?

Mr. **Powderly**. The figures that we got from the Deputy Secretary in May of 1984 showed that 8,930 steelworkers were participating or had participated in a training opportunity. Only 1,000 had, at that time, when the study was made, finished the training—and that would be a correlation pretty close with the 8,900 that went in, the 1,000 that came out.

And I am not sure if he is just saying that they are still in the training or whether they have come out of the training and have not been placed in employment. I wasn't sure I grasped exactly what he said.

Mr. **Frenzel**. I wasn't either. Mr. Chairman, I wonder if we could have our staff try to elucidate us by some telephone calls and see if we can figure out what we are really talking about.

Mr. **Pease**. Surely, we'll do that.

Mr. **Frenzel**. Your meal ticket is over here, he always convinces me—I have to keep voting for this program, although it is not one of my favorites.

Thank you very much for your assistance.

Mr. **Pease**. Thank you, Mr. Frenzel. We again appreciate the testimony of all three of our witnesses, and appreciate especially your patience in waiting so long to testify. And we hope that we will be able to accomplish at least an 8-year reauthorization of this program so we won't have to come back every year.

Thank you very much.

I would like to ask unanimous consent—Mr. Frenzel, if you are willing—to include in the record Customs Service's responses to a number of detailed questions asked by the subcommittee staff.

Mr. **Frenzel**. It's the easiest thing you have asked me for in 10 years.

Mr. **Pease**. Without objection, so ordered. We will also be asking the Customs Service and the ITC to respond to several written questions for the record. This concludes today's hearing. The record will remain open until Thursday, February 28, for anyone interested in submitting additional comment.

[Whereupon, at 3:56 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

BILL FRENZEL
Third District, Minnesota

Washington Office
1026 Longworth Building
202-225-2871

Congress of the United States
House of Representatives
Washington, D.C. 20515

Minnesota Office
[illegible]
Room 448
8120 Penn Avenue South
Bloomington, Minnesota 55431
612-881-4600

April 29, 1985

Hon. Sam Gibbons
1111 Longworth Bldg.

Dear Mr. Chairman:

Attached are two submissions I would like included in the hearing record for the Customs-USTR-ITC Authorization.

The first is the summary of a study conducted by Morry Rosenbloom during his tenure as Business Liaison at Customs.

The second is public comment to a proposed regulations by Customs regarding changes to Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products. This information is provided as many examples of how disruptive and infeasible such proposed changes would be.

Thanks for your consideration.

Yours very truly,

Bill
Bill Frenzel
Member of Congress

Submission

3

Assessment of Relationships
between
A Major Segment of the
IMPORTING COMMUNITY
and the
U.S. CUSTOMS SERVICE

October 1984

Business Liaison Officer
Office of Commercial Operations
U.S. Customs Service
Department of the Treasury

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

REFER TO
MAN-1-CO:T MVR

October 29, 1984

Mr. Robert P. Schaffer
Assistant Commissioner
(Commercial Operations)
U.S. Customs Service
Washington, D.C. 20229

Dear Mr. Schaffer:

In submitting this final report on the wide-ranging assessment project I have conducted for the U.S. Customs Service, it provides an opportunity to acknowledge the practical vision of Deputy Commissioner Alfred R. De Angelus in proposing a new Business Liaison position at Customs.

The assessment of current relationships with a number of trade associations and organizations that have frequent and significant dealings with Customs was undertaken, in accordance with his perceptions, as an endeavor aimed at enhancing effective and efficient interaction with a major segment of the importing community.

This report features a categorized grouping of Executive Summary items with recommendations for action and an indication of pertinent trends for consideration. Work on the project has included updating efforts with some of the twelve trade associations and relevant Customs officials at Headquarters.

Inasmuch as several responses from the private sector included complaints about action or inaction in the field, it would be helpful if copies of the report are distributed to the Regional Commissioners as soon as feasible to receive the benefit of their views and those of their associates.

This report has been organized in a format deemed most useful for appraisal, for implementation which may flow from the findings, and as the basis for continuing dialogue. It is my hope that this assessment project and the report will exceed expectations as to its value for the U.S. Customs Service.

Yours faithfully,

Morris Victor Rosenbloom

Morris Victor Rosenbloom
Business Liaison Officer

EXECUTIVE SUMMARY

I. OPERATIONAL AREAS

A. Lead Time for Public Notices

CUSTOMS SHOULD IMPROVE LEAD TIME FOR PUBLIC NOTICES WITHIN ITS CONTROL AND PROMOTE MORE TIMELY NOTICE BY AGENCIES FOR WHICH CUSTOMS HAS ENFORCEMENT RESPONSIBILITIES.

Several comments dealt with the problems of short lead time for major changes. We recommend changing the Customs Issuance System and public notice procedures to identify and address notification to the newsletters of the major organizations concerned with Customs actions. Excluded, of course, would be those intended for internal use only. Some associations seem to rely on local reissuances of Headquarters directives at the cost of time and clarity. We recommend an internal policy issuance directing persons dealing with other agencies, where Customs enforces their requirements, to press for timely notice and to advise other agencies that it will be Customs policy to include explanations of the reasons when issuances are made on short notice. This may help to keep Customs from being blamed for other agency failures to provide for adequate lead time.

As an aid to reminding those other agencies about lead time considerations, it may be useful to prepare and distribute a generic brochure outlining those considerations, and how problems can be avoided by timely consultation with appropriate Customs experts.

B. Lead Contacts at Headquarters

ASSIGNMENT OF LEAD CONTACT PERSONS WILL IMPROVE COORDINATION WHERE VARIOUS CUSTOMS OFFICES EACH HAVE PARTIAL RESPONSIBILITY IN A MULTI-FACETED AREA.

Several offices at Customs Headquarters have varying degrees of relationships to areas in which Customs has multi-faceted responsibilities, such as sureties. Coordination will be improved if a lead contact person is assigned from one of the offices to be the coordinator, as has been done in the case of the Automated Commercial System (ACS) Phase II.

C. Coordinated Customs Bond Liaison

CUSTOMS SHOULD ANALYZE ALL ASPECTS OF BONDING TO DETERMINE BENEFITS OF CENTRALIZED LIAISON WITH THE IMPORTING COMMUNITY.

The respondents from the surety industry identified the problems between the Customs Service and the surety industry as:

1. Inadequate bond administration by Customs;

2. Lack of communication between the surety industry and top management of Customs;

3. The fractionalized operational environment of bonding within Customs which fosters uncoordinated actions by various responsible units within Customs.

Customs middle management indicates many of the problems, both real and perceived, will be resolved by the Customs Bond Structure Redesign and channels of communication being established with the industry. These communication channels are being formalized as a result of the April 10, 1984, public hearing held with the surety industry. The bond structure redesign will become effective on February 18, 1985.

If adequate integration of the various aspects of bond administration by the responsbile Customs offices is not accomplished through the Customs Bond Structure and its supporting computer processes, action should be taken to provide such integration. In this regard, an analysis should be made to determine whether or not bond administration control at headquarters under one office, division, or subdivision would be beneficial to uniform field application of policy and procedures and provide responsive liaison with the private sector.

D. Administrative Support for Commercial Operations

MAINTENANCE OF A HARD CORE OF COMPETENT PERSONNEL TO PERFORM IMPORTANT FUNCTIONS INVOLVED IN THE COMMERCIAL OPERATIONAL ROLE OF CUSTOMS.

In addition to having adequate personnel for the enforcement role of the U.S. Customs Service, it is essential that an adequate administrative support staff be available to perform the additional responsibility of Customs to collect revenues.

Both internal and external concerns about this subject have been received by the Business Liaison Officer. Also, he has observed this need in the course of his work. A minimum hard core must be provided at Customs Headquarters and in the field to ensure effective and efficient performance of the commercial operational function.

E. Role for Private Sector Committees in Problem Solving

COMMITTEES OF BROKERS AND OTHER ORGANIZATIONS HAVING REGULAR CUSTOMS BUSINESS SHOULD BE FORMED ON REGIONAL AND/OR DISTRICT LEVELS TO MEET WITH CUSTOMS OFFICIALS THERE TO HELP SOLVE PROBLEMS.

In an attempt to resolve differences whenever possible at the District level, the Business Liaison Officer agrees with a recommendation of the Program Mangagement Staff of the Office of Commercial Operations that Customs Headquarters encourage Customs Committees of brokers and other organizations having regular business with Customs, be formed on a Regional and/or District level to meet with the relevant officials at the Regional and District levels to consider problems and develop solutions at the appropriate level.

F. Transition to the Automated Commercial System (ACS)

THERE SHOULD BE A PROPERLY TIMED TRANSITION WITH REGARD TO CUTTING COMPETENT STAFF WHILE SIGNIFICANT ACCOMPLISHMENTS CONTINUE TO BE MADE BY CUSTOMS IN AUTOMATED DATA PROCESSING.

Customs positions at Headquarters and in the field associated with day-to-day performance of ongoing line operations should not be adversely affected during the onrush toward a completely automated data processing system. Otherwise, if experienced and capable personnel are cut too soon, it only increases the workload and pressures on the remaining employees and counteracts the objective of maintaining an efficient Customs function.

G. Business Liaison Office

THE BUSINESS LIAISON OFFICER SHOULD SERVE AS A FOCAL POINT OF COMMUNICATION BETWEEN CUSTOMS AND TRADE ASSOCIATIONS AND ORGANIZATIONS THAT HAVE FREQUENT AND SIGNIFICANT DEALINGS WITH CUSTOMS. THE BUSINESS LIAISON OFFICE SHOULD BE CHANGED FROM ITS PRESENT SIZE OF ONE INDIVIDUAL TO A RELATIVELY SMALL BUT EXPERIENCED GROUP.

Assessment of relationships between a major segment of the importing community and the Customs Service has been the initial function of the Business Liaison Officer. In addition, considerable time has been spent on handling specific assignments involving members of the business community and other government agencies.

Based on the position description and the findings in this project, the Business Liaison Officer is to assist Customs in bringing about improved interaction with major segments of the business community, particularly those engaged in importing operations. With respect to individual firms, the Business Liaison Officer would be expected to aid as a coordinating arm in arranging that appropriate coordination be achieved between inquiries received and the relevant Customs official to handle the matter. Issues would be identified and directed to the Customs office with technical responsibility. With respect to Customs Regions, he or she would be expected to refer pertinent matters to the designated official in the respective Region.

At a minimum, the Business Liaison Office should be composed of 4 people: a Business Liaison Officer, a Deputy or Assistant, with secretarial and clerical assistance. Reconsideration should be given to the placement of the Business Liaison Office within Customs.

The Department of Commerce - a much larger and more multi-faceted organization that includes a number of agencies within its scope - has 14 persons in its Office of Business Liaison. Discussions with a few of the Commerce Business Liaison officials and other top management officials at Commerce, attest to the significant and high level role that office plays for the Department. Included as Exhibit II in the Appendix is a copy of the sheet describing the functions of the office, and the Department of Commerce Organization Order which followed the establishment of the Office of Business Liaison in 1980 by Secretary Baldrige.

EXECUTIVE SUMMARY (continued)

II. PROCEDURAL MATTERS

A. Complaint Resolution Procedures

OTHER THAN FOR CLEARLY NATIONAL ISSUES THAT CALL FOR RULEMAKING BY THE CUSTOMS SERVICE, IT SHOULD BE RE-EMPHASIZED TO ASSOCIATIONS, ORGANIZATIONS, AND FIRMS THAT WISH TO BRING COMPLAINTS ABOUT ACTION OR INACTION IN THE FIELD TO THE ATTENTION OF CUSTOMS HEADQUARTERS THAT THEY SHOULD DO SO AFTER ATTEMPTING TO RESOLVE SUCH PROBLEMS AT THE LOCAL LEVEL. WHEN REQUESTING CUSTOMS HEADQUARTERS TO ALLEVIATE THE PROBLEM PRESENTED, HEADQUARTERS SHOULD BE ADVISED AS TO THE ACTION TAKEN LOCALLY AND THE RESPONSE RECEIVED. *

For some years complaints have been made to Headquarters (without providing specific facts) by customs brokers associations, other organizations and firms, about Customs personnel in the field. Primarily, the complaints have been with regard to: non-uniform treatment; misinterpretation of legislative or regulatory provisions; unfair practices; problems with EXODUS and other programs. In response the Commissioner, Deputy Commissioner, Assistant Commissioner (Commercial Operations), and other Customs officials repeatedly have requested specific information from the complainants. Assurances have been given that, upon receipt of such information, prompt steps would be taken by Customs Headquarters to check on the validity of the claims and, when the facts warrant it, remedial action would be forthcoming.*

The normal businessman's desire not to antagonize local government officials with whom he must continue to work explains the reluctance for specifics to be volunteered. To improve the chances of a local solution, it is necessary to clarify to local officials that while this procedure is available, Headquarters expects sincere efforts to be made locally to work out differences.

B. Publicizing Right to Seek Review

ANNOUNCEMENT BY CUSTOMS TO THE IMPORT COMMUNITY ON PROCEDURE FOR RESOLVING COMPLAINTS ABOUT FIELD ACTION OR INACTION THAT CANNOT BE RESOLVED AT THE LOCAL LEVEL.

A statement should be issued by Customs advising the importing community that complaints on specific charges which cannot be resolved at the local level after a determined effort has been made to do so, and with the understanding that an explanation must be made with specificity, a face-to-face meeting should be held with appropriate officials at Customs Headquarters.*

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* Reference to attempts for resolution at the "local Level" includes the District and, if necessary, the Regional officials.

C. Updating Key Personnel at Customs Heaquarters

IN ORDER TO ENHANCE RELATIONSHIPS BETWEEN THE CUSTOMS SERVICE AND THE BUSINESS COMMUNITY, IT IS IMPORTANT TO IMPROVE COMMUNICATIONS WITH KEY PERSONNEL IN THE OFFICES, DIVISIONS, AND BRANCHES WHO HAVE REGULAR DEALINGS WITH THE PRIVATE SECTOR.

The key personnel referred to above should be apprised as promptly as possible about proposed and newly established Customs initiatives and modifications in policy, program, and procedural areas. Such communication is necessary also with the Business Liaison Officer and, when feasible, prior input should be requested.

D. Updating the Importing Community from Customs Headquarters

CURRENT PROCEDURE FOR MAKING REPORTS ON THE STATUS OF ACTION ITEMS AVAILABLE TO SPECIFIC GROUPS SHOULD BE CONTINUED.

The issue about the need for updating that was raised by a few associations and organizations that have meetings with Customs Headquarters is now being overcome effectively by the Program Management Staff of the Office of Commercial Operations. Reports on the status of action items from previous meetings prepared for distribution to the specific groups has been well received and should be continued.

III. COMMUNICATION PATTERNS

A. Publicizing Progress in National Uniformity

CUSTOMS SHOULD PUBLICIZE ITS EFFORTS TO ACHIEVE NATIONAL UNIFORMITY IN PROCEDURES AND POLICIES.

There were numerous comments from various respondents about the lack of uniformity of detailed procedures or of local applications of policy. A national uniformity brochure for distribution should be prepared by the Business Liaison Office, in coordination with appropriate Headquarters offices. Reference should be made in the brochure to those conditions at the Northern and Southern borders which inhibit uniformity. Information for the brochure should be drawn upon from Exhibit I to this report.

The purpose of this publication will be to explain the early concern by the drafters of the U.S. Constitution for uniformity of treatment* and the increasing needs and opportunities for uniformity as the expansion of trade and growing capability of communication and data transmission has enabled industry and government to oversee similar activities in many ports. It would serve also to explain to the importing public how to protest non-uniform treatment and identify the Customs officials (including the Business Liaison Officer) by title, location, and telephone number who can be contacted to explain Customs procedures and to clarify and investigate apparently non-uniform situations. This would direct inquiries to District Directors for local matters and the Assistant Area Director New York Seaport in cases of non-uniform merchandise classification. A review of recent Office of Management Inspection and Duty Assessment Division surveys is recommended in order to identify the major areas of non-uniformity and recommend measures to improve uniformity.

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* Article I, Section 8, states: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises ... but all duties, imposts and excises shall be uniform throughout the United States;"

Article I, Section 9, states: "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

Comment: The scope of Customs procedures go beyond the collection of duties, taxes, and imposts, and Customs Headquarters does not put out regulations that discriminate between ports. Thus, a literal reading of the Constitution does not mandate uniformity in every practice established below the Headquarters level, but these provisions do reflect an underlying intent to require uniformity of treatment.

B. Improving Liaison at the Local Level - Timely Updates

IN ORDER TO ENHANCE RELATIONSHIPS BETWEEN THE CUSTOMS SERVICE AND THE BUSINESS COMMUNITY AT THE LOCAL LEVEL, IT IS IMPORTANT FOR THE PRIVATE ORGANIZATIONS WITH GOOD LIAISON AT THE HEADQUARTERS LEVEL TO PASS ALONG PROMPTLY THROUGH THEIR OWN ORGANIZATIONS THE BENEFITS OF THEIR LIAISON AT THE HEADQUARTERS LEVEL AND FOR CUSTOMS TO IMPROVE COMMUNICATIONS WITH ITS KEY PERSONNEL IN THE OFFICES, DIVISIONS, AND BRANCHES WHO HAVE REGULAR DEALINGS WITH THE PRIVATE SECTOR.

While the associations contacted generally reported good liaison with top management officials at the Customs Headquarters level, this was not the case at the working level. The comments expressed a need for information as promptly as possible about proposed and newly established Customs initiatives and modifications in policy, program and procedural areas. It is believed that liaison will be significantly improved when the Automated Commercial System (ACS) becomes fully operational.

These recommendations about improved communications with Customs result from written and verbal information obtained both externally and internally about our current relationships with the business community. An additional justification appears in the memorandum of Commissioner von Raab, dated April 25, 1984. In reaffirming the central themes of a recent San Antonio Conference, the Commissioner stressed in his list of action items: "Communication is critical to the smooth running of the organization ... Customs executives and managers must avoid the bureaucratic procedures and chain of command syndrome when the objective is to convey significant information on a timely basis directly to those officials who have a need to know."

The AAEI specifically stated that they have been pleased with the update it gets from Customs in Washington. A further check is warranted on whether updating can be improved with regard to other groups.

The private organizations should be asked to re-examine their own distribution procedures. It may be that some do it better than others and that perhaps improvements can be made for getting timely and pertinent information to their local members after meetings with top management officials at Customs Headquarters.

Such dissemination of information is obviously not a substitute for many of the decisions that need to be made at levels below Headquarters in order to take care of special situations, but improved vertical communications will expand the number of ad hoc determinations that can be avoided when Headquarters guidance is known at those levels.

C. Management Seminars and Meetings

MORE FREQUENT REGIONAL AND NATIONAL MANAGEMENT SEMINARS, QUARTERLY RATHER THAN ANNUAL REGIONAL MEETINGS OF DISTRICT STAFFS, AND INCLUSION OF OPPORTUNITIES FOR INTERFACE WITH THE IMPORTING COMMUNITY AT SUCH MEETINGS WHERE

FEASIBLE, SHOULD CONTRIBUTE TO MORE EFFECTIVE COORDINATION BETWEEN CUSTOMS AND THE IMPORTING COMMUNITY.

In view of the differences in content and composition of the importing community from one District and port to another, and the factors involved at the Northern and Southern borders where local conditions inhibit some aspects of uniformity, it is recommended that more frequent regional and national management seminars be held. Also, if feasible, quarterly rather than annual regional meetings of District staffs should contribute the benefits of interpersonnel communication to overall coordination.

The need for Customs personnel to meet without public participation for a variety of reasons is understood. However, in scheduling these meetings, some time allocated for meeting with the private sector, or joint sessions in non-sensitive areas, could enhance communication goals.

D. Periodic Review of Relationships

THE CUSTOMS SERVICE SHOULD FOLLOW UP ON A SEMI-ANNUAL BASIS WITH REQUESTS TO ORGANIZATIONS WITH WHICH CUSTOMS HAS A SIGNIFICANT AND FREQUENT RELATIONSHIP ASKING THEM HOW THEY VIEW THEIR CURRENT INTERACTION WITH CUSTOMS. THEY SHOULD BE INVITED TO MAKE RECOMMENDATIONS IN ANY AREAS WHICH THEY BELIEVE CAN BE IMPROVED.

Formalizing this process on a periodic basis may remove reluctance to be out front in making observations and suggestions since input is being solicited. This is not intended to be a substitute for normal communications in the course of business, but would be a periodic reminder that improved communications is a common goal and is taken seriously.

Receptivity to a broker's or importer's problems at the local level may be improved by timely reminders to Customs employees of the Service's desire that bona fide effort be made to resolve disputes locally in order to avoid overburdening appeals to Headquarters. While information of such procedures is made available to new employees, it may be of some value to periodically include this in communications for local personnel. The preparation and disssemination to Customs personnel of a concise brochure may be helpful in outlining the strong desire for disputes to be resolved, whenever possible, at the local level.

EXECUTIVE SUMMARY (continued)

IV. PERTINENT TRENDS

The following trends have been indicated or inferred from the responses and from recent developments that have been noted:

A. The Customs Service

1. Customs is handling a larger workload with fewer employees. This appears to be accepted as the way things will be. Manpower increases for some functions in the commercial operations area appear needed.

2. Some observers felt that there is increasing centralization of Customs administration in Headquarters. In fact, there are both centralizing and decentralizing trends in Customs. Reducing the number of regions and centralizing duty assignment locations do concentrate administration and reduce the span of control for Headquarters. The revised National Import Specialist structure, and the transfer of authority to the NIS group to issue simple rulings, has a decentralizing effect.

3. Comments about non-uniformity among ports and districts persist and it has been implied to the Business Liaison Officer that non-uniformity in appraisement and procedures has brought about an increase in port shopping. The Customs Automated Commercial System (ACS) is expected to reverse these trends by standardizing input requirements and eventually by providing a realtime data base with TSUSA line item capability.

4. Significant progress is underway as the Automated Broker Interface (ABI), an integral part of ACS, is expected to handle about 25 percent of entry volume by the end of 1984. A nationwide survey of importers and brokers conducted in 1982 by Customs showed that brokers accounted for 95 percent of all entries and that 175 broker companies out of a total of 900 were automated for entry preparation. Most brokers have shown interest in participating in ABI. On April 1, 1984, the system was opened to all qualified entry preparers nationwide. Workload and service time reductions are foreseeable with continued increase of computer capabilities and applications.

B. The Customs Brokerage Industry

1. Strong impetus for uniformity of Customs procedures is being generated by the concentration of customs brokerage into larger firms operating across District and Regional boundaries and the emergence of international broker firms. This trend has corresponded to the development of main frame computers and long line technology, personal computers, and the continuing development and improvement of software for both large and small computers.

2. The deregulation of the airlines has caused service to many smaller communities to be eliminated or reduced with increased activity at hub airports. Airports speed-up efforts in passenger and cargo clearances are affecting the patterns of broker competition.

3. The more Customs becomes computerized, the more precision and discipline will be required in the process of entry - both in format and location. Customs brokers would like to have experience or apprenticeship requirements included in the qualifications for a license. This doubtless would make the new licensee better qualified, but would also tend to limit access to the business. The brokers also show more interest in the content and difficulty of the semi-annual broker examination administered by Heaquarters. Interest in greater flexibility of operation by the licensed brokers has been expressed. Recently passed legislation is of aid in accomplishing this objective.

4. Freight is being consolidated into containers, which in turn are being aggregated into unit trains. Air and sea freight is being concentrated into fewer and larger terminals, while faster distribution methods are emerging to take freight from the large terminals with less intermediate handling to the point of sale or use.

5. Satellite communications for the transmission of computerized data will have increased application to freight manifesting and accounting. Improved clearance procedures are supported by businesses aware of the high cost of money, opportunities to reduce inventories held by merchandisers and manufacturers, together with the use of electronic funds transfer to reduce interest costs.

C. International Trade

1. Increasing protectionist pressures and the interplay of exporter, importer, and multinational corporate interests, are causing a greater focus on the use of the Nation's unfair trade laws, with resultant increase in the demands on Customs personnel to enforce the special regulations implementing these laws or other Executive decisions.

2. The United States shares mutual interests with Canadian Customs and Mexican Customs to harmonize and interface our export and import trade control documents and procedures. Our Customs-to-Customs efforts with Japan seek to improve access to the Japanese market. The U.S. is an active participant in the GATT and the Customs Cooperation Council. There is reasonable expectation that an international tariff nomenclature (the Harmonized System) will be forthcoming. The United States is also championing internationally non-discrimination against services, as well as products, in international trade forums. This reflects the increasing recognition of the growth of services for its role in international revenue raising, as well as its trade facilitation potential.

3. New advances in communication and transportation mean that there are no longer any distant places or events. The time available to react to events has been reduced to hours rather than days. Levels of activity in trade and communications have risen to the point where summaries of the past must be nearly current with the present to enable one to correctly project near future events. The initiators of change within this environment have multiplied and their range of choices go far beyond traditional limits.

Submission #2

Comments to U.S. Customs
Proposed Regulation
19 CFR Part 134
2/11/85

I. VIEWS IN OPPOSITION TO 19 CFR PART 134

1. Potato Chip/Snack Food Association, John R. Cady, President, 1711 King Street, Suite One, Alexandria, VA 22314
2. Green Coffee Association of New York, R. F. Goldsmith, Inc., 82 Wall St., New York, NY 10005
3. Coffee Butler Service, Thomas E. Williams, President, 3660 Wheeler Ave., Alexandria, VA 22304
4. M&M/Mars, D. Rosenfield, Scientific Affairs Director, High St., Hackettstown, NJ 07840
5. Coffee Holding Co., Inc., Sterling Gordon, President, 383 3rd Ave., Brooklyn, NY 11215
6. Melitta, Inc., Walter Ronning, Marketing Manager, P.O. Box 900, Cherry Hill, NJ 08003
7. Borden, Inc., Jerome R. Schindler, Attorney, 180 E. Broad St., Columbus, OH 43215
8. Hill Bros. Coffee, Norman Dean, President, P.O. Box 7449, San Francisco, CA 94120
9. World's Finest Chocolate, Inc., Chicago, IL
10. Associated Food Industries, 115 Broadway, New York, NY 10006
11. Grocery Manufacturers of America, Stephen Brown, Executive Vice President, 1010 Wisconsin Ave., N.W., Washington, D.C. 20007
12. Chocolate Manufacturers Association of the U.S.A., Dr. Rhona Applebaum, Director of Scientific Affairs, 7900 Westpark Drive, Suite 514, McLean, VA 22102
13. Food Marketing Institute, Harry Sullivan, Senior Vice President and General Counsel, 1750 K St., N.W., Washington, D.C. 20006
14. General Foods Manufacturing Corporation, Paul J. Keating, Vice President, 120 Wall St., New York, NY 10005
15. Collier, Shannon, Rill & Scott, Attorneys-at-Law, (On behalf of The Biscuit & Crackers Manufacturers' Association), Richard Silverman, Counsel, 1055 Thomas Jefferson St., N.W., Washington, D.C. 20007
16. Sears, Roebuck & Co., Mr. Randof Aires, Vice President, Corporate Government Affairs, 633 Penn. Ave., N.W., Suite 600, Washington, D.C. 20004
17. Nabisco Brands, Inc., James A. Kirkman III, Vice President - Law, East Hanover, NJ 07936
18. Chock Full O'Nuts, Dr. Leon Pordy, Chairman of the Board, 370 Lexington Ave., New York, NY 10017
19. Superior Coffee, James D. Cockman, 990 Supreme Drive, Bensenville, IL 60106
20. Coca-Cola Company, Norman Mandel, P.O. Box 2079, Houston, TX 77252
21. Lonray, Inc., James M. Bederka, Vice President, 77 Water St., New York, NY 10005
22. Tea Association of the U.S.A., Inc., Jack Painter, President, 230 Park Ave., New York, NY 10169
23. Farr Man Coffee, Mary Williams, Vice President, 2 World Trade, Suite 3050, New York, NY 10048

24. Peanut Butter & Nut Processors, James E. Mack, 9005 Congressional Court, Potomac, MD 20854
25. Lance, Inc., L. J. Pryor, Director of Purchasing, P.O. Box 32368, Charlotte, NC 28232
26. Continental Coffee Products Company, James H. Bankard, President, 2550 N. Clybourn Ave., Chicago, IL 60614
27. Sprague & Rhodes Coffee Trading Co., Eugene Yale David, President, 99 Wall St., New York, NY 10005
28. Wm. B. Reily and Co., Inc., Curtis Zimmerman, Manager, Commodity Operations, 640 Magazine St., New Orleans, LA
29. National Coffee Association, U.S.A., George Boecklin, President, 120 Wall St., New York, NY 10005
30. Cadillac Coffee Co., John R. Gehlert, President, 4740 Nevada Ave., Detroit, MI 48234
31. Frito-Lay, Inc., Charles H. Murphy, Vice President, Government & Consumer Affairs, Exchange Park, Dallas, TX 75235
32. Tom's Foods, Inc., Ronald W. Blaschke, Director of Quality Assurance, P.O. Box 60, Columbus, GA 31994
33. Green Coffee Association of NYC, Inc., John D'Elena, President, 120 Wall St, New York, NY 10005
34. Crescent Foods, Faye Mattson-Cotter, Manager of Regulatory Affairs, P.O. Box 3026, Seattle, WA 98114
35. American Instants, Inc., Thomas J. Roche, Jr., President, P.O. Box 536, Stanhope, NJ 07874-0536
36. The Great Atlantic & Pacific Tea Co., I. I. Szathmary, 2 Paragon Drive, Montvale, NJ 07645
37. Greenwich Mills Co., Mr. Gary S. Fischer, Vice President, 520 Secaucus Road, Secaucus, NJ 07094
38. Old Dominion Foods, Inc., Thomas B. Sherwood, General Manager, 324 Newport St., Suffolk, VA 23434
39. Beltran, Peter W. Clegg, Vice President, One Acton Place, Acton, MA 01720
40. Sunray Food Products Corporation, David O. Brechner, Managing Director, 3441 Kingsbridge, NY, NY 10463
41. Zenobia Company, Ira Agress, 3441 Kingsbridge Avenue, Bronx, NY 10463-4095
42. The Folger Coffee Company, B. J. Heintz, Vice President, P.O. Box 65502, Cincinnati, OH 45201
43. Congressman William Thomas

PC/SFA
THE POTATO CHIP/SNACK FOOD ASSOCIATION
1711 King Street Suite One Alexandria, Virginia 22314
TELEX 704254 (703) 836-4500

April 12, 1985

Regulations Control Branch
United States Customs Service
1301 Constitution Avenue, N.W.
Room 2426
Washington, D.C. 20229

Re: Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products; Notice of Proposed Change and Solicitation of Comments, 50 Fed. Reg. 5629 (1985)

Dear Sir:

Enclosed please find three copies of the statement submitted by the Potato Chip/Snack Food Association, Inc. in connection with the above-referenced proposal.

Very truly yours,

John R. Cady

John R. Cady
President

Enclosure

national Trade Association Representing Manufacturers of Snacks Made from Vegetables Grains Fruits Meats and Nut

Before the
United States Customs Service

COUNTRY-OF-ORIGIN MARKING OF IMPORTED NUTS, COFFEE BEANS AND SIMILAR AGRICULTURAL PRODUCTS

Submitted by
The Potato Chip/Snack Food Association, Inc.

I. INTRODUCTION

The Potato Chip/Snack Food Association, Inc. ("PC/SFA") is pleased to respond to the U.S. Customs Service's ("Customs") invitation for public comment on the issues raised in the February 11, 1985 Federal Register notice of this proposal. 50 Fed. Reg. 5629 (1985). PC/SFA is comprised of 470 U.S. manufacturers of snack foods, including roasted nuts, their associated suppliers and equipment manufacturers.

In the Federal Register notice, Customs proposes to reconsider its prior uniform and established practice and now require country-of-origin marking of raw nuts which are imported into the United States and then roasted by U.S. processors. PC/SFA believes that this proposed policy is inconsistent with U.S. law and, moreover, would impose a substantial hardship on domestic companies.

II. LEGAL AND FACTUAL ANALYSIS

Section 304 of the Tariff Act of 1930, as amended, requires, with certain exceptions, that all articles of foreign origin or their containers imported into the United States be legibly and conspicuously marked in such a manner as to indicate to an "ultimate purchaser" in the United States the English name of the country of origin of the article. 19 U.S.C. § 1304 (1982). See also 19 C.F.R. § 134.11 (1984). PC/SFA submits that, for purposes of section 304, its members, are the "ultimate purchasers" because their processing operations "substantially transform" imported raw nuts into roasted nuts, products that have a different name, character, and use. See id. § 134.35. It is therefore PC/SFA's position that the retail packages containing roasted nuts need not be marked to indicate the presence of any imported ingredients.

This conclusion is supported in two principal ways. First, Customs has a consistent practice of regarding the U.S. processor of imported nuts as the "ultimate purchaser" where roasting transforms the imported article into a new and different article of commerce -- roasted nuts. This practice is supported by a body of rulings involving nuts as well as a variety of other products.

Second, an analysis of the processing operations involved in transforming raw nuts into roasted nuts in light of the legal tests applied by Customs and the courts supports Customs' longstanding conclusion that imported raw nuts are substantially transformed during U.S. roasting operations. Any other interpretation would contravene U.S. law.

A. Legal Background

As noted in the proposal, Customs has traditionally defined "substantial transformation" as a change which results in a new and different article of commerce with a new name, character, or use. 50 Fed. Reg. 5629 (1985). This test, expressly mentioned in Customs' regulations (see 19 C.F.R. § 134.35 (1984)), is a codification of the test announced in 1940 by the U.S. Court of Customs and Patent Appeals in the case of United States v. Gibson-Thomsen Co., Inc., 27 C.C.P.A. 267, C.A.D. 98 (1940). 1/ In Gibson-Thomsen, the CCPA held that a U.S. manufacturer who assembled imported brush

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1/ In Gibson-Thomsen, the test was expressed as whether an imported article was used in the manufacture of a new article having a different "name, character and use." Significantly, the Customs regulation codifying this test describes it disjunctively as whether the processed article has a new "name, character or use." 19 C.F.R. § 134.35 (1984) (emphasis supplied). This characterization has been endorsed by the courts. See, e.g., Data General Corp. v. United States, 3 CIT 182, 185-86 (1982); United States v. Int'l Paint Co., 355 C.C.P.A. 87, 93, C.A.D. 376 (1948).

blocks and toothbrush handles into toothbrushes qualified as an "ultimate purchaser" under this test.

In applying the "new name, character, or use" test, Customs has also relied on subsequent judicial interpretations of the Gibson-Thomsen test in its analysis of "substantial transformation" questions. In Midwood Industries, Inc. v. United States, 64 Cust. 499, C.D. 4026, appeal dismissed, 57 C.C.P.A. 141 (1970), the Customs Court elaborated on the "new use" criterion of Gibson-Thomsen by distinguishing between "producers' goods" and "consumers' goods." In Midwood, the Customs Court held that imported steel forgings which were converted into fittings and flanges in the United States were "substantially transformed" and that, accordingly, the U.S. fabricator was not required to mark the finished fittings and flanges as of foreign origin. The court noted that the forgings in question were manufactured abroad with dimensions closely approximating those of the ultimate finished fittings and flanges, thereby minimizing the amount of physical transformation required after importation. 64 Cust. Ct. at 507. Figuring more heavily in the court's analysis, however, was the commercial transformation of the forgings from "producers' goods" to "consumers' goods." The court stated:

> [A]s producer's goods the forgings are a material of further manufacture, having, as such, a special value and appeal only for manufacturers of flanges and fittings. But, as consumers' goods the flanges and fittings produced from these forgings are end use products, having, as such, a special value and appeal for industrial users and for distributors of industrial products. Consequently, the two classes of goods, namely, the imported forgings, and the fittings and flanges made therefrom, are different articles of commerce in a tariff sense.

Id. Moreover, Customs, in employing the Midwood test, has recognized its special applicability to cases where the imported article is clearly in an "unfinished" state -- that is, where the imported merchandise has a clearly defined identity as producer goods and no utility without further processing. See Ruling 721106 (Aug. 23, 1983) (unfinished footwear from Haiti).

Finally, in the most recent gloss applied by the U.S. Court of International Trade ("CIT") (the successor to the Customs Court) as to whether a "substantial transformation" has occurred, the CIT examined the time, value and complexity involved in processing operations performed in the United States. In Uniroyal, Inc. v. United States, 3 CIT 220, 542 F. Supp. 1026 (1982), the issue was whether imported lasted shoe uppers of moccasin construction were "substantially transformed" in the United States when the importer attached a rubber sole and subjected the completed shoe to various finishing operations. The CIT held that they did not, concluding that "the manufacturing process performed [in the United States] is a minor assembly operation which requires only a small fraction of the time and cost involved in producing the uppers." 3 CIT at 224, 542 F. Supp. at 1029-30. The CIT's holding that the uppers were required to be marked was affirmed by the U.S. Court of Appeals for the Federal Circuit, with the court specifically approving the reasoning used by the lower court. 702 F.2d 1022 (Fed. Cir. 1983). However, it appears that the "comparative value/cost/materials" test should only be applied where the processing operations in the United States are truly insignificant.

As demonstrated below, the roasting of nuts substantially transforms the imported raw material by whatever legal test is applied.

B. Customs Has Correctly Ruled That Roasting Constitutes a Substantial Transformation

Applying these tests, Customs has consistently ruled that the process of roasting, whether it be macadamia nuts, pistachio nuts or coffee beans, substantially transforms the imported article into a new and different article of commerce. An examination of the rulings shows that Customs' determinations are based on proper legal considerations. In ruling no. 724350, dated June 4, 1984, and ruling no. 726412, dated September 25, 1984, Customs applied the Gibson-Thomsen test and held that roasting of pistachio nuts resulted in a substantial transformation and no country-of-origin marking was required. Customs has also held that domestic roasting of imported macadamia nuts results in a similar transformation. Ruling no. 726040, dated August 30, 1984.

Such rulings concerning the roasting of nuts reference prior decisions involving the roasting of coffee beans. In ruling no. 070395, dated June 6, 1983, Customs held that green, raw, crude, or unroasted coffee beans are a separate and distinct article of commerce from roasted coffee beans. Notably, one of the results of the roasting process, said Customs, was that aromatic oils were released from the core of the bean, giving the bean the characteristic aroma and color associated with the type of bean or blend or roasting method chosen. Customs further stated that blending and roasting or roasting alone of green coffee beans "clearly creates a new and different article of commerce."

Customs cited both Gibson-Thomsen and Midwood Industries in its next determination that the process of roasting coffee beans is a substantial transformation. Ruling no. 722980, dated October 17, 1983. Customs found, inter alia, that the process changed the unroasted coffee beans into a new article having a new name, character, or use, and that the process was responsible for changing the raw product from a "producer goods" item that is neither used by, nor capable of use by, the retail consumer, into a "consumer goods" item that has value and use to the consumer. A further refinement of Customs' position was set forth in ruling no. 722360, dated June 6, 1984, where Customs ruled that the process of making fully roasted beans from either unroasted or semi-roasted beans was a substantial transformation.

Contrasted with the preceding determinations, Customs has held that semi-roasting of green, raw, crude, or unroasted coffee beans does not, per se, create a new and different article of commerce. Ruling no. 073467, dated April 30, 1984. Customs expressed the opinion that semi-roasting might amount to a substantial transformation, but should involve more than a process intended only to kill harmful bacteria and/or insects in preparation for entry into a country where final blending and roasting or roasting alone is accomplished. This ruling evidences Customs' practice of distinguishing between a full roasting process and lesser operations.

Thus, Customs has consistently held that roasting of nuts and coffee beans amounts to a substantial transformation of the imported article; no country-of-origin marking is therefore required. There is no evidence demonstrating that such a past, consistent practice is clearly erroneous. It should therefore be continued.

III. A CHANGE IN PRACTICE WILL IMPOSE SEVERE HARDSHIP ON THE U.S. PROCESSING INDUSTRY

PC/SFA also urges the Customs Service to maintain its prior practice because a change in policy will be extremely burdensome and costly to U.S. nut processors.

First, existing inventories of labels will have to be destroyed, resulting in the loss of millions of dollars. Further if Customs requires new labeling for those packages using imported raw materials, U.S. companies will not only be forced to have separate inventories of labels, depending on whether imported raw materials are used, but they will also be compelled to track separate inventories of different containers, again depending on the use of a foreign ingredient.

Finally, a mixed nut processor can be faced with special problems. For example, a U.S. company may import cashews, pistachios, filberts, peanuts, almonds, or macadamia nuts. However, at a particular time, perhaps the cashews are imported from one set of countries, and the pistachios from another. How should the can be labeled? If one can of mixed nuts contains five different nuts, and each is imported from three different sources, must the can list all of the different countries for each nut? What happens when the sources for each nut change, as often is the case with agricultural products?

Because of such difficulties, Customs should confirm its prior practice which is sound in terms of law and economics.

IV. CONCLUSION

For the foregoing reasons, the Potato Chip/Snack Food Association, Inc. respectfully requests that the U.S. Customs Service sustain its longstanding practice of determining that roasting operations constitute substantial transformation and that no country-of-origin marking is necessary when imported raw nuts are roasted in the United States.

Green Coffee Association of New York City, Inc.

JOHN D'ELENA, *President*
EUGENE Y. DAVID, *Vice-President*
GARY FISCHER, *Treasurer*

120 WALL STREET
NEW YORK, N.Y. 10005

DAVID S. SWEET, *Secretary*
Tel. (212) 943-2452
Cable Address: GREENYORK

April 4, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

8 1985

Gentlemen:

This Association represents that segment of the coffee industry concerned with American or Canadian sited importers, jobbers, agents or roasters of green coffee which is the raw agricultural product from which a cup of coffee is made. We believe our membership accounts for or deals with about 70% of the coffee imported into this country.

We submit this comment in regard to those proposed changes in country of origin marking requirements related to coffee which are contained in the Federal Register (Feb. 11th, 1985; FR Vol. 50, No. 28 page 5629).

We adopt and wholly support the presentation made on this matter by the National Coffee Association of U.S.A., Inc. (See letter Mr. George E. Boecklin dated March 26th, 1985).

It is our firm conviction that imposing, for the first time, as to coffee a requirement that the consumer package itemize the country of origin of each growth included in that package will cause unnecessary hardship, substantial expense, will increase the retail price, and will afford the consumer no worthwhile information.

The essential purpose of origin marking is to afford the consumer the opportunity to choose between buying domestic and foreign articles. The release you issued (to which this letter responds) says precisely that.

However the consumer has no choice to purchase an American coffee because coffee is grown only outside of the United States except for a negligible amount grown in Hawaii.

Coffee has never been marked to show the country of origin of its component parts except as to speciality packaged items in which it is deemed useful to emphasize the name of the growth and specific qualities of a particular foreign country such as Colombia, Brazil, Kenya or Blue Mountain Jamaican coffee. We are unaware that any governmental agency, member of the coffee industry, or member of the public has ever complained about the absence of information on the source of coffee on the retail package.

Very truly yours,

John D'Elena
President

Cables AREFGEE
Telex 420221
Code ACME & SUPPLEMENT

Phone WHitehall 3-3185
(5 Lines)

R. F. GOLDSMITH, INC.
Member Green Coffee Association of New York City, Inc.

82 WALL STREET
NEW YORK, N. Y. 10005

April 9, 1985

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APR 2 2 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Ave.
Washington, D.C. 20229

Gentlemen:

This is to inform you that we are and have been active Brokers in the coffee business for many years. We would like to go on record that we wholly support the presentation made by the National Coffee Association of the U.S.A.,Inc. and the Green Coffee Association of New York City, Inc. with regard to their position on the Federal Register (Feb. 11, 1985: FR Vol. 50, No.28 page 5629).

We also feel that imposing for the first time as to coffee a requirement that the consumer package itemize the country of origin of each growth included in that package, will cause unnecessary hardship, substantial expense, will increase the retail price, and will afford the consumer no worthwhile information, just added cost.

We sincerely hope that you will take our views, the views of the National Coffee Association of the U.S.A.,Inc. and the Green Coffee Association of New York City, Inc. into consideration as it takes into account the best interests of both the U.S. Consuming public and of the Green Coffee industry, as a whole.

Very truly yours,

Manuel N. Lopez

R. F. Goldsmith, Inc.
Mr. Manuel N. Lopez/President

COFFEE BUTLER SERVICE,® INC.

3660 WHEELER AVENUE • ALEXANDRIA VIRGINIA 22304 • (703) 823-6800

April 12, 1985

Regulations Control Board
Room 2426
U.S. Customs Service
1301 Constitution Avenue, NW
Washington, D.C. 20229

12

Dear Sirs:

With reference to your notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985) and 19 CFR-177.10(c)(2), we respectfully endorse all the comments made on this subject by the National Coffee Association of U.S.A., Inc., in their letter to you dated March 26, 1985.

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The proposed changes will indeed cause unnecessary hardship to U.S. Roasters without any benefit to consumers.

Very truly yours,

Thomas E. Williams

Thomas E. Williams
President

TEW/dc

150B PENROD COURT • GLEN BURNIE, MARYLAND 21061 • 760-5900

M&M MARS
a division of Mars, Incorporated
High Street, Hackettstown, New Jersey 07840/Telephone 201 - 852-1000

12 April 1985

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[illegible] 16 1985
59

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, DC 20229

Dear Sirs:

RE: COUNTRY OF ORIGIN MARKING OF IMPORTED NUTS, COFFEE BEANS, AND SIMILAR AGRICULTURE PRODUCTS
FEDERAL REGISTER VOL. 50, No. 28, 11 FEBRUARY 1985, P. 5629

M&M/MARS, a major manufacturer of chocolate confectionery products, wishes to inform you of its agreement and support of the comments of Chocolate Manufacturers Association on the referenced subject.

Sincerely,

Daniel Rosenfield

Daniel Rosenfield, Ph.D.
Scientific Affairs Director

DR:sd

COFFEE HOLDING COMPANY INC.
IMPORTERS & ROASTERS

383 THIRD AVENUE
BROOKLYN, NEW YORK 11215
Telephone (718) 858-2513
TWX 710-584-4095

April 11th, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue
Washington, D.C. 20229

RE: Federal Reg (Febll 1985
FR Vol 50, No. 28 page 5629

15

Gentlemen:

With regard to the above which would require that coffee packages be marked so as to contain the percentage of coffee from every origin would impose and impossible burden on every manufacturer (roaster) of coffee in the U.S.A. 54

Overlooking the fact that coffee varies considerably from each and every origin that it may come from and that the taste of coffee is very similar from different origins even though they may be at the other side of the world the biggest single problem is that of packaging material.

To require that the package state country of origin and percentage would be an impossibility in as much as packaging material must be ordered and printed months in advance and since coffee is blended to taste and not to grade or country of origin it would impose and impossible and really ridiculous burden on our industry without having any redeeming value to the consumer.

Please cancel same or deny same.

Very truly yours,

COFFEE HOLDING CO INC.

Sterling Gordon

Sterling A. Gordon, Pres.

MELITTA INC.
USA

Coffeemakers
Coffee Filters
Coffee

April 11, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

56

Gentlemen:

We are aware of the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and 19 CFR Par. 177.10 (c) and (2) and would like to express our strong concern should these changes be implemented.

As a manufacturer and roaster of a green bean coffee blend, we would be required to provide country of origin markings. Since our blend consists of various coffees originating from different countries and since these sources are being exchanged quite frequently due to the varying quality of crops, markings would have to be changed in a very frequent manner. This, in turn, would interfere severly with the economy of scale of material purchasing and production runs. A substantial cost increase would ultimately have to be born by the U.S. consumer.

Sincerely,

MELITTA INC.

Walter Ronning
Marketing Manager

WR:js

Melitta Inc. 1401 Berlin Road, P.O. Box 900, Cherry Hill, NJ 08003 • Phone (609) 428 7202 • Telefax (609) 772 1537 • Telex 83 4343

BORDEN INC
180 East Broad Street · Columbus Ohio 43215

LAW DEPARTMENT

April 9, 1985

Regulations Control Branch
Room 24-26
U.S. Custom Service
1301 Constitution Ave., N.W.
Washington, D. C. 20229

15

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Re: Country of Origin Marking
50 FR 5629 (February 11, 1985)

Dear Sir:

We have carefully read the February 11th notice of proposed rule making regarding a change in country of origin marking requirements for imported products processed in the U.S. by roasting.

Whether a roasting process results in "substantial transformation" it is a difficult question, the answer to which might vary with how you define "substantial" as well as with a close examination of the particular agriculture product involved.

This re-examination of a long established practice of considering "roasting" a prima facie substantial transformation apparently arose with imported pistachio nuts being labeled and sold in a manner that mislead consumers into thinking they were grown in California.

Rather than abruptly and radically changing long standing Customs rulings on this subject, we submit that this type of deception is more directly and properly addressed by other statutes, including but not limited to Section 403(a) of the Federal Food, Drug and Cosmetic Act which declares a food to be misbranded if its labeling is false or misleading in any particular, and Section 5 of the FTC Act which makes unlawful generally unfair and deceptive acts and practices in commerce. Similar statutes exist at the state level.

From a description of this particular misrepresentation, it appears that it would not likely have been corrected by a small notation, "product of Iran," hidden on the back label.

Reversal of these long standing Custom's rulings in regard to roasting will be particularly troublesome for importers of coffee, cashews, and other agricultural products which are not grown domestically but may be sourced from several different foreign countries. In some cases, an agriculture product coming from a particular country may not even have been grown in that country. For example, India may purchase unshelled cashew nuts from Africa or China, shell them, and sell them along with native shelled cashew nuts.

For the above reasons, we urge that the U.S. Customs Department not rescind their prior rulings that a roasting process results in a substantial transformation of an agriculture product.

Respectfully submitted,

Jerome R. Schindler
Attorney for Borden, Inc.

JRS:cm

HILLS
BROS
COFFEE, INC.

April 9, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Ave., N.W.
Washington, D.C. 20229

Dear Sirs,

We strongly urge the U.S. Customs Services to exempt the U.S. coffee industry from the proposed changes it is planning to effect in country-of-origin labeling (Ruling #722980, October 17, 1983).

Since virtually all coffee sold in the United States is imported, we feel there is no basis for the concern expressed by the Customs Service that domestic agricultural producers may be affected. Also, the coffee-roasting process is a complex one in which the end product, roasted coffee, bears different characteristics from the original article of commerce.

Finally, the proposal would be an impractical one to implement, since the country of origin of coffee beans manufacturers use changes almost daily.

It is for these reasons we maintain that for a processed coffee product, the country of roasting should continue to be regarded as the country of origin.

Sincerely,

HILLS BROS. COFFEE, INC.

Norman E. Dean
President

NED/ck

western union

Telegram

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PMS REGULATION CONTROL
U.S. CUSTOMS SERVICE
ROOM 2426
1301 CONSTITUTION AVENUE, NORTHWEST
WASHINGTON, D.C. 20229

DEAR SIRS:

WE OPPOSE THE PROPOSED REGULATION THAT FINISHED PRODUCT LABELS MUST IDENTIFY THE COUNTRY OF ORIGIN OF ANY NUTS, COFFEE BEANS, OR SIMILAR AGRICULTURAL PRODUCT USED IN THE ITEM. WE DO SUPPORT THE POSITION TAKEN BY THE CHOCOLATE MANUFACTURER'S ASSOCIATION ON THIS PROPOSAL.

WORLD'S FINEST CHOCOLATE, INC.
TELEX #25276 WORFINCHO

1453 EST

AFI Pistachio

AFI
Established in [illegible]

115 BROADWAY
NEW YORK, NY 10006
212-267-4244
TELEX: [illegible]

Association of Food Industries, INC.

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Executive Vice President
RICHARD J. SULLIVAN
General Counsel
ROBERT FUNICELLO

April 12, 1985

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APR 12 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Re: Country of Origin Marking of
Imported Nuts, 19 C.F.R. Part 134
(50 Fed. Reg. 5629, February 1, 1985)

Dear Sir:

The Association of Food Industries, Inc. (AFI) -- Pistachio Group, presents these comments in opposition to the Customs Service proposal to require country of origin marking on imported raw pistachio nuts which are subsequently roasted and salted (substantially transformed) and sold in retail packages to consumers. For many years, the Customs Service has properly ruled that the roasting of pistachio nuts and coffee has substantially transformed these products into new and different articles of commerce. See Customs Rulings 722980, 070395, and 724350. This interpretation was just recently reaffirmed in a letter from Robert P. Schaffer, Assistant Commissioner (Commercial Operations) to Senator Pete Wilson in which it was stated:

> "It is Customs position that the roasting of pistachio nuts results in a substantial transformation. Therefore, 19 C.F.R. §134.25 does not require repackaged, but domestically roasted, pistachio nuts to be marked to indicate a foreign country of origin." (Customs Decision No. 726412, September 25, 1984).

Absent compelling new evidence, AFI believes this ruling should and must stand.

AFI is surprised and concerned that the Customs Service has undertaken this expansive review of its "substantially transforms" policy in connection with inshell pistachio nuts. Any change in this interpretation would have a most significant impact on importers of bulk raw agricultural products -- as much as any Customs ruling in the last 25 years, if not longer.

When one considers the multi-billion dollar value of imported agricultural products that would be affected by a change in Customs policy on substantial transformation, we are surprised that pistachio nuts, which is such a minor imported product, could be the cause of such a review.

AFI will restrict its comments to demonstrating that imported, inshell raw pistachio nuts are substantially transformed into acceptable consumer product by manufacturing processes in the United States. However, similar data could be submitted on behalf of every agricultural commodity that would be affected by a change in Customs' understanding of substantial transformation. Just what those numerous products are is not easily determined, because in the Federal Register notice proposing this change, only nuts and coffee are specifically identified.

It should be noted at the outset that in the Preamble to the last amendment to Part 134, Country of Origin Marking, in the Federal Register of July 26, 1983, Customs asserted that most imported food products that enter in bulk will not be subject to the certification rule because they will be substantially changed by processing or blending with other products. It is somewhat surprising that Customs has apparently reached a diametrically opposed view in this proposal, less than two years after the most recent amendment to Part 134.

Any change in Customs' interpretation of the "substantial transformation" concept should be adopted only after indepth rulemaking focusing on each particular product. AFI believes that the instant proposal is far too comprehensive in scope and should be withdrawn. For a review of such magnitude, there should be most compelling reasons and these reasons should be made part of the official record. This has not occurred in the instant case. Customs has not set forth any reasons for why it is proposing to significantly change its views as to what constitutes "substantial transformation;" views which have been established through dozens of prior Customs rulings and prior rulemakings.

Rulemaking is an orderly interpretation of the law. When rulemaking has failed to meet the changing and significant requirements of the marketplace, one expects to see legislative initiatives to cope with the situation. We have seen no evidence of glaring or significant failings in the regulations requiring country of origin marking. No broad constituency has identified any glaring flaws in the law or its current application or interpretation. Absent such a showing, Customs has no basis or purpose for moving foward.

It appears that the instant rulemaking, at least as it applies to pistachios, has been triggered by a small, but growing, California pistachio industry. Until recently, the vast majority of pistachios consumed in the United States were imported. The California industry has greatly increased its production, far in excess of current demand. As a consequence, the California industry has pursued both legislative and regulatory initiatives to curtail importation of pistachios as a means of expanding its own market. Having failed in its attempts to eliminate or curtail inshell pistachio imports in the Congress through legislation that would impose higher duties, and other legislation that would have required that each individual pistachio nut be marked with the country of origin, the California industry now turns to the U.S. Customs Service for relief. See H.R. 1867 and 1868, 97th Congress, 1st Session, introduced by Representative Thomas on February 17, 1981. If Congress wishes to change the law in regard to imported pistachio nuts, it had the opportunity to do so. It did not do so. Congress does not generally deal with trade law in a piecemeal fashion, nor does it distort major trade policies to achieve rather limited goals such as the promotion of a particular domestic industry. AFI believes that the views of Congress offer guidance as to how the U.S. Customs Service should deal with the review of substantial transformation.

Importation of Pistachio Nuts

There are two varieties of imported inshell raw pistachio nuts -- long and round. They are usually entered in bulk form in burlap bags weighing approximately 70 kilos. The imported product is a raw agricultural commodity that is not put into consumer distribution channels until it has been cleaned, roasted, salted, and, for a significant segment of the market, colored red with FDA certified food color.

A sample from every import is sent to the USDA laboratory in Dothan, Alabama for aflatoxin testing. In the laboratory, the raw agricultural commodity is also tested for moisture content, percentage of loose-shell kernels, percentage of foreign matter, count per ounce, percentage of kernels filling less than half the shell, percentage of kernels filling less than a quarter of the shell (empties), percentage of nuts split open, percentage of rancid, moldy and decayed kernels, percentage of nuts showing brown to black discoloration, and percentage of nuts showing insect damage.

The trade requires inshell pistachio nuts to be 95% open and full meated. Total defects cannot exceed 10%. If they do, the importer will reject the lot and re-export it. In many, but not all, cases the importer sells his product to an independent roaster/salter/packager.

__Size and Grading Pistachios__

Inshell pistachios are imported according to count per ounce, such as 24-26, 26-28, and 28-30 count. In order to meet the size requirements of some buyers, the imported nuts sometimes must be graded again in the U.S. by the Agricultural Marketing Service (USDA).

The nuts are passed through a rotary screen (perforated cylinder). Small nuts fall through the screen and the large ones pass through the cylinder. Once separated by size, the processor is able to prepare product for the U.S. consumer with the consistency that he/she demands. The imported raw product is often quite variable as to size and quality and not acceptable to the consumer until it has been sorted, separated, sized, graded, and subsequently processed (roasted, salted, and colored). Once graded, the product passes through a scalping screen which removes large nuts and foreign matter. It then passes through an aspirator to remove light nuts, empties, and shrivels. In this process, one loses about 1% of the nuts by weight. To remove any ferrous materials, the nuts are passed over a magnet and are then placed onto a specific gravity table which differentiates the nuts by specific gravity. Any stones or relatively heavy foreign material still in the product will be eliminated by the gravity table.

__Roasting/Salting Process__

Pistachio nuts in the raw bulk form are not acceptable for consumer consumption. Rather, this raw material must be roasted, salted, and in many instances colored, in order to make it acceptable for the consumer trade.

Pistachio nuts are heat processed in a closed cylinder roaster with the nuts and salt tumbling together. The salt polishes the shells, assures an even heat distribution, and enters the split of the nut to flavor the product. During the roasting process, the internal temperature of the nuts must reach 280°F in order to achieve proper flavor development. Raw pistachios lack an acceptable flavor and taste for the consumer market. The roasting process takes from 20-30 minutes depending on such things as moisture content and size of nuts. During the roasting process, the chemical composition of the nut is substantially changed. See Appendix 1 and Appendix 2 for a comparison of dried or raw pistachio nuts in their imported state and roasted pistachio nuts, processed in the United States. These Appendices are taken from Agriculture Handbook No. 8-12 of the United States Department of Agriculture: "Composition of Food -- Nut and Feed Products."

Not only is the chemical composition of the product substantially changed by roasting, the roasting process is also important for the destruction of mold, spores, and bacteria that are natural and unavoidable contaminants in any raw agricultural product.

Coming out of the roaster, the product passes over a wire mesh belt where excessive salt is removed. The nuts are then forced over a flat screen and air cooled. Once cooled, in some processing operations, they are passed over a specific gravity table if this has not already been done. Then, they are conducted by a conveyor belt to a packaging hopper from which they are distributed into a bulk packaging machine or consumer packaging machine, depending upon whether the nuts are being packed for the institutional trade or the retail trade.

There is no question but that the raw bulk pistachio nuts imported into the United States are "substantially transformed" into clean, roasted, salted, and nutritious consumer products.

Coloring of Pistachio Nuts

In addition to roasting and salting, approximately 50% of pistachio nuts are colored with FD&C Red No. 3, a permanently listed food color. The coloring not only makes pistachio shells more presentable, but many consumers expect the pistachios to be red and will not buy them unless they are red. Color is therefore a functional food additive which substantially changes the appearance of pistachios to meet consumer requirements.

Shelf-Life of the Product

After roasting, the shelf-life of the product in ambient air is decidedly changed. Unless protected from oxygen within 24-48 hours after roasting, the flavor will substantially deteriorate. The product will become stale and rancid, loose commercial value, and become unacceptable to the consumer. By contrast, raw nuts do not have to be protected from oxygen. In cold storage, they will show little or no deterioration for several years and in ambient air at room temperature, they will remain stable for many months.

In the raw state, pistachios can be traded, moved from country to country, or from importer to importer. Once roasted, they must be packaged immediately for the consumer and put into food service, wholesale, or retail distribution.

Pistachio Consumption

Inshell pistachio nuts are rarely, if ever, consumed in the raw state. To develop the proper flavor and consumer appeal, the nuts have to be roasted and, in the United States, salt is added. The use of salt is unique to U.S. processing. In Europe and in the Middle East, for example, salt is not added. In these regions, lemon juice is added and the flavor characteristics of the nut are quite different from the product processed in the United States. Thus, it would truly be misleading to require country of origin marking on the U.S. roasted product, thereby leading the consumer to believe the product has the characteristics generally associated with the foreign product.

Capital Investment/Value Added

A fully equipped pistachio roasting plant in the United States with the capacity of 1,500 metric tons per year will cost about $500,000.00. The equipment enables all the grading, sorting, roasting, salting, coloring, and packaging described above. The value added to the product in the roasting operation, including profit, is over 100%. By the time the product reaches the consumer, another 100% in value has been added to the raw product, but the raw material cost is approximately 33% of the retail price paid by the consumer.

Conclusion

API believes that these facts demonstrate beyond all doubt that substantial transformation takes place in the roasting and processing of imported pistachio nuts. Any change in the current rule would have a decidedly adverse affect on domestic importers, processors, and consumers. Absent compelling evidence to the contrary, API believes the current interpretation of Part 134 should remain in effect.

Respectfully submitted,

Rich J Sullivan
Richard J. Sullivan
Executive Vice President

Richard L. Frank
Special Counsel

NUTS

Dried or Raw Pistachio Nuts

Pistachio Nuts, dried
Pistacia vera

Nutrients and units		Amount in 100 grams, edible portion			Amount in edible portion of common measures of food		Amount in edible portion of 1 pound of food as purchased
					Approximate measure and weight		Refuse: Shells 50%
		Mean	Standard error	Number of samples	1 oz = 28.4 g[1]	1 c = 128 g	
A		B	C	D	E	F	G
PROXIMATE:							
Water	g	3.87	0.226	31	1.10	4.95	8.77
Food energy	kcal	577			164	739	1,309
	kJ	2,416			686	3,092	5,479
Protein (N x 5.30)	g	20.58	0.776	31	5.84	26.34	46.68
Total lipid (fat)	g	48.39	1.363	31	13.74	61.94	109.74
Carbohydrate, total	g	24.81			7.05	31.75	56.26
Fiber	g	1.88			0.53	2.40	4.26
Ash	g	2.40			0.68	3.07	5.45
MINERALS:							
Calcium	mg	135	5.002	11	38	173	307
Iron	mg	6.78	0.605	11	1.93	8.67	15.37
Magnesium	mg	158			45	202	359
Phosphorus	mg	503			143	644	1,142
Potassium	mg	1,093	12.089	10	310	1,399	2,479
Sodium	mg	6	0.638	10	2	7	13
Zinc	mg	1.34	1.035	2	0.38	1.71	3.03
Copper	mg	1.189	0.057	10	0.338	1.522	2.697
Manganese	mg	0.327			0.093	0.419	0.742
VITAMINS:[2]							
Ascorbic acid	mg						
Thiamin	mg	0.820		1	0.233	1.050	1.860
Riboflavin	mg	0.174	0.045	2	0.049	0.223	0.395
Niacin	mg	1.080		1	0.307	1.382	2.449
Pantothenic acid	mg						
Vitamin B_6	mg						
Folacin	µg	58.0		1	16.5	74.2	131.5
Vitamin B_{12}	µg	0			0	0	0
Vitamin A	RE	23			7	30	53
	IU	233			66	298	530
LIPIDS:							
Fatty acids:							
Saturated, total	g	6.127			1.740	7.843	13.896
4:0	g						
6:0	g						
8:0	g						
10:0	g						
12:0	g						
14:0	g	0.045		2	0.013	0.058	0.102
16:0	g	5.349		29	1.519	6.847	12.132
18:0	g	0.628		29	0.178	0.804	1.424
Monounsaturated, total	g	32.668			9.278	41.815	74.091
16:1	g	0.286		29	0.081	0.366	0.649
18:1	g	31.976		30	9.081	40.929	72.522
20:1	g	0.220		3	0.062	0.282	0.499
22:1	g						
Polyunsaturated, total	g	7.316			2.078	9.364	16.593
18:2	g	7.022		30	1.994	8.988	15.926
18:3	g	0.252		24	0.072	0.323	0.572
18:4	g						
20:4	g						
20:5	g						
22:5	g						
22:6	g						
Cholesterol	mg	0			0	0	0
Phytosterols	mg	108			31	138	245
AMINO ACIDS:							
Tryptophan	g	0.283		2	0.080	0.362	0.642
Threonine	g	0.722		2	0.205	0.924	1.637
Isoleucine	g	0.975		2	0.277	1.248	2.211
Leucine	g	1.677		2	0.476	2.147	3.803
Lysine	g	1.278		2	0.363	1.636	2.899
Methionine	g	0.381		2	0.108	0.488	0.864
Cystine	g	0.513		2	0.146	0.657	1.163
Phenylalanine	g	1.184		2	0.336	1.516	2.685
Tyrosine	g	0.714		2	0.203	0.914	1.619
Valine	g	1.410		2	0.400	1.805	3.198
Arginine	g	2.186		2	0.621	2.798	4.958
Histidine	g	0.536		2	0.152	0.686	1.216
Alanine	g	0.994		2	0.282	1.272	2.254
Aspartic acid	g	2.116		2	0.601	2.708	4.799
Glutamic acid	g	4.916		2	1.396	6.292	11.149
Glycine	g	1.095		2	0.311	1.402	2.483
Proline	g	0.947		2	0.269	1.212	2.148
Serine	g	1.351		2	0.384	1.729	3.064

[1] 1 oz = approx. 47 kernels.
[2] Alpha-tocopherol = 5.21 mg per 100 g.

Reproduced from Agriculture Handbood #8-12,
USDA, "Composition of Foods: Nut and Seed Products"

NUTS

Pistachio Nuts, dry roasted

Nutrients and units		Amount in 100 grams, edible portion			Amount in edible portion of common measures of food		Amount in edible portion of 1 pound of food as purchased
		Mean	Standard error	Number of samples	Approximate measure and weight		Refuse: Shells 48%
					1 oz = 28.4 g	1 c = 128 g	
A		B	C	D	E	F	G
PROXIMATE:							
Water	g	2.09			0.59	2.67	4.92
Food energy	kcal	606			172	776	1,429
	kJ	2,539			721	3,250	5,987
Protein (N x 5.30)	g	14.93		1	4.24	19.11	35.20
Total lipid (fat)	g	52.82		1	15.00	67.61	124.54
Carbohydrate, total	g	27.53			7.82	35.24	64.92
Fiber	g	1.80			0.51	2.31	4.26
Ash	g	2.63			0.75	3.37	6.20
MINERALS:							
Calcium	mg	70		1	20	90	165
Iron	mg	3.17		1	0.90	4.06	7.47
Magnesium	mg	130			37	166	307
Phosphorus	mg	476			135	609	1,122
Potassium	mg	970		1	275	1,242	2,287
Sodium[1]	mg	6			2	8	14
Zinc	mg	1.36			0.39	1.74	3.21
Copper	mg	1.211			0.344	1.550	2.856
Manganese	mg	0.333			0.095	0.426	0.785
VITAMINS:							
Ascorbic acid	mg						
Thiamin	mg	0.423		1	0.120	0.541	0.997
Riboflavin	mg	0.246		1	0.070	0.315	0.580
Niacin	mg	1.406		1	0.400	1.802	3.320
Pantothenic acid	mg						
Vitamin B_6	mg						
Folacin	mcg						
Vitamin B_{12}	mcg	0			0	0	0
Vitamin A	IU						
	RE						
LIPIDS:							
Fatty acids:							
Saturated, total	g	6.688			1.899	8.561	15.770
4:0	g						
6:0	g						
8:0	g						
10:0	g						
12:0	g						
14:0	g	0.050			0.014	0.064	0.118
16:0	g	5.830			1.656	7.473	13.766
18:0	g	0.685			0.195	0.877	1.615
Monounsaturated, total	g	35.659			10.127	45.644	84.084
16:1	g	0.313			0.089	0.401	0.738
18:1	g	34.904			9.913	44.677	82.304
20:1	g	0.240			0.068	0.307	0.566
22:1	g						
Polyunsaturated, total	g	7.986			2.268	10.222	18.831
18:2	g	7.665			2.177	9.811	18.074
18:3	g	0.275			0.078	0.352	0.648
18:4	g						
20:4	g						
20:5	g						
22:5	g						
22:6	g						
Cholesterol	mg	0			0	0	0
Phytosterols	mg						
AMINO ACIDS:							
Tryptophan	g	0.206			0.059	0.264	0.486
Threonine	g	0.524			0.149	0.671	1.236
Isoleucine	g	0.707			0.201	0.905	1.667
Leucine	g	1.217			0.346	1.558	2.870
Lysine	g	0.927			0.263	1.187	2.186
Methionine	g	0.276			0.078	0.353	0.651
Cystine	g	0.372			0.106	0.476	0.877
Phenylalanine	g	0.859			0.244	1.100	2.026
Tyrosine	g	0.518			0.147	0.663	1.221
Valine	g	1.023			0.291	1.309	2.412
Arginine	g	1.586			0.450	2.030	3.740
Histidine	g	0.389			0.110	0.498	0.917
Alanine	g	0.721			0.205	0.923	1.700
Aspartic acid	g	1.535			0.436	1.965	3.620
Glutamic acid	g	3.566			1.013	4.564	8.409
Glycine	g	0.794			0.225	1.016	1.872
Proline	g	0.687			0.195	0.879	1.620
Serine	g	0.980			0.278	1.254	2.311

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[1] Value based on data for product without added salt. Product with added salt contains 780 mg sodium per 100 g.

Reproduced from Agriculture Handbook #8-12, USDA,
"Composition of Foods: Nut and Seed Products"

GMA
Stephen A. Brown
Executive Vice President

April 12, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Ave., N.W.
Washington, D.C. 20229

Dear Sirs:

Re: Imported nuts, coffee beans, and similar agricultural products, 50 Federal Register, February 11, 1985

The Grocery Manufacturers of America (GMA) is the trade association of the leading manufacturers of food and other grocery products sold in retail outlets throughout the United States. Our members employ 2.5 million people and have annual sales in excess of $200 billion.

Existing law requires that every imported article or product or its container be marked to show its country of origin. However, this requirement does not apply to articles and products "substantially transformed" as a result of manufacturing or processing within the United States. The Customs Service has previously ruled that nuts, coffee beans, and similar agricultural products which are imported raw and processed by roasting may be marked and marketed as products of the United States. Under the change proposed in the subject notice, these rulings would be rescinded on the grounds that the roasting process does not constitute a substantial transformation of these products, meaning that they would have to be marked to show the country from which they were imported as their country of origin.

GMA opposes the proposed rescission of the Customs rulings. Since the major interest of our membership in the notice centers on its effect on coffee, our comments here will be directed to that product. However, our opposition also extends to the other agricultural products covered by the notice where similar substantial transformations are involved. In this connection, it would appear that changes in the status of products currrently exempt from country of origin requirement should be governed by the same principle courts have applied in recognizing such exemptions, namely, that each case should be decided on its own particular facts.

Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007•(202) 337-9400•TWX: 710-8229384

Substantial transformation. As already noted, products substantially transformed by processing within the United States are exempt from the country of origin marking requirement because they have, in effect, become products of the United States as a result of this transformation. Whether such a substantial transformation has occured depends on a comparision of the product before and after its processing in the United States. This, in turn, involves an examination of the processing operations themselves.

A substantial transformation will be deemed to have occurred if a new product, having a new name, character, or use, emerges from the processing. Conversely, a substantial transformation will not be deemed to have occurred where only insignificant processing operations have occurred.

Members of GMA who are major processors of coffee sold in the United States and other trade associations have commented on the change proposed in the subject notice. They have presented at considerable length comparisions between imported coffee beans and roasted coffee and the nature of the processing operations involved. Even if we were qualified to make a similar detailed comparison, which we are not, no useful purpose would be served by repeating it here. However, we think even the most cursory examination of the facts establishes that a substantial transformation has occurred when imported coffee beans are processed into the coffee sold at retail to the ultimate consumer and that this transformation results from extensive and complex processing operations.

Green coffee beans are not sold to consumers nor are they used directly as a food or beverage. They are sold to producers for roasting and the other processing required before coffee is ready for sale at retail. The complex roasting process brings about necessary chemical changes which affect flavor, color, aroma, and other characteristics of the final product. Blending of coffee from a number of different countries produces further changes in the imported product. In these ways, the character and use of coffee sold at retail clearly differ from the character and use of green coffee beans and, equally clearly, these differences meet the established test of a substantial transformation. Customs recognized this in its October 17, 1983, ruling relating to roasted coffee, and there have been no subsequent changes in the law or the facts that would warrent a rescission of that ruling.

Labelling burden. Marking coffee sold at retail with the country of origin would impose a substantial burden on both the producer and the consumer. Coffee is imported from some fifty countries, and blending often involves the use of as many as twenty different types of coffee. Blends are changed frequently, sometimes daily, as a consequence of changes in supply, quality, price, etc. To comply with the country of origin requirements under these circumstances, producers would have to either (1) repeatedly change packaging labels, thereby disrupting highly automated systems, or (2) standardize their blends or include in them coffee from every exporting country, thereby foregoing the many benefits of current blending practices. Apart from the likely effect on quality, any of these alternatives would result in substantial additional costs which would inevitably be passed onto the consumer in the form of higher coffee prices. These higher costs would not appear to be offset by any corresponding benefits. Indeed, attempting to advise consumers of the country of origin of green coffee would, because of the many countries involved, either confuse them or provide them with information serving little or no useful purpose.

Absence of significant domestic production. As is well known to consumers, virtually no coffee is grown in the United States. It is our understanding that there is a ready market for the little, less that one-tenth of one percent of sales, that is produced in Hawaii. There are thus no domestic growers who are affected by coffee imports. Therefore, marking roasted coffee with the countries of origin would not achieve one of the major purposes of the law, namely, allowing the ultimate consumer to distinguish between domestic and imported products.

Respectfully submitted,

Stephen A. Brown

SAB/cmw

R54

Chocolate Manufacturers Association
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April 12, 1985

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Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, NW
Washington, D.C. 20229

Dear Sir/Madam:

The Chocolate Manufacturers Association (CMA) is a trade association representing 15 firms engaged in the manufacture and distribution of cocoa and chocolate products. Members of CMA produce a substantial portion of the cocoa and chocolate products manufactured in the U.S.

The CMA wishes to comment on the notice of proposed change in country of origin marking published in the Federal Register, Vol. 50, No. 28, on Monday, February 11, 1985. We believe the proposed change will not only adversely impact our own industry, but more importantly, seriously affect the economies of producing countries.

We are concerned with the term, "similar agricultural products" as used in the wording of the proposed change. Though coffee and nuts are the specific examples cited, we believe cocoa beans may be included under this broad heading. We are, therefore, against the recision of the current ruling for the following reasons:

A) The growing conditions required by the cacao tree are fairly precise and the areas of cultivation lie within 20° latitude of the equator. Within these latitudes a temperature range of 70°-90° F and rainfall of 45 to 100 inches is necessary for optimum yield. Because of these specific climatic requirements, cocoa beans cannot be produced in the U.S. Consequently, because there is no domestic production of this product, there can be no concern to domestic parties as to the origin of this agricultural commodity;

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B) Because of natural variation found within and among different types of cocoa beans, it is necessary for manufacturers of chocolate to use a "blend" of beans from different countries in order to maintain product cost, uniformity, and above all, quality. To achieve these results, it is often necessary to change the "blend" of beans used on a daily basis.

The work that will be required to maintain accurate information in regard to the origin of beans used in the finished product will impact upon the product's labeling cost, and the cost of the product to the consumer; and

C) The change in labeling requirements would result in repercussions of grave consequence. More than thirty second and third-world countries rely on cocoa beans as a commodity for export - many relying on it as a major source of their foreign earnings. A change in the current ruling will force domestic chocolate manufacturers to purchase only from major producing countries in order to avoid having to list all countries of origin from which beans are imported.

Consequently, a change in the current ruling will undermine present U.S. programs designed to aid and assist underdeveloped countries in becoming economically independent by producing cocoa beans for use by the U.S. and other nations.

Surely, the Administration would not support a rule change which would so adversely affect these countries.

We strongly believe that a change in the country of origin marking will result in problems of major consequence to all parties involved - the producing countries, users in the U.S. and ultimately the American consumer. The Chocolate Manufacturers Association (CMA) is against any change in the rules currently promulgated for the country of origin marking.

Sincerely yours,

Rhona S. Applebaum

Rhona S. Applebaum, Ph.D.
Director of Scientific Affairs

RSA:jh
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April 12, 1985

Regulations Control Branch
Room 2426
U.S Customs Service
1301 Constitution Avenue
Washington, DC 20229

RE: 19 C.F.R. Part 134; Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products.

Dear Sirs:

These comments are filed by the Food Marketing Institute (FMI) in response to the notice of proposed change in the country of origin marking requirements for imported nuts, coffee beans and similar agricultural products.

FMI is a non-profit association that conducts programs in research, education and public affairs on behalf of its 1500 members--food retailers and wholesalers and their customers. FMI's member companies operate over 17,000 retail food stores with a combined annual sales volume of $130 billion--half of all grocery sales in the United States. More than three-fourths of FMI's membership is comprised of independent supermarket operators or small regional firms.

FMI appreciates the opportunity to comment on this proposal and urges the Customs Service not to rescind its prior rulings on this issue which consistently and properly hold that roasting does substantially transform nuts, coffee beans and similar agricultural products and that, accordingly, retail packages of roasted nuts and coffee beans are not required to bear a country of origin marking on the label.

A contrary ruling now, would be inconsistent, illogical and extremely expensive and burdensome for retailers. It would impose significant cost burdens on food retailers and, ultimately, on American consumers. Moreover, such a determination could have far-reaching implications, raising serious questions about the country of origin marking requirements on a wide variety of processed food items.

The roasting of imported coffee beans and nuts changes the character of these nuts and beans in the most fundamental way. It is this processing operation that creates the value of the product for the consumer and that transforms the product into the specific article of commerce that satisfies consumer demand. Without this processing, the imported products would have no utility for the American consumer. In sum, the roasting process results in a substantial transformation of the imported product to produce a new article with a different character and use.

A requirement that the retail package of these products bear a country of origin marking would create havoc for food retailers with private label and generic brands.* In many, if not most, cases the private label product is supplied from a number of sources, depending on available supplies, price and quality. In the case of nuts and coffee beans (and most likely other "similar agricultural products"--a rather vague term that will require a great deal more definition if the proposal is adopted) the product is obtained from suppliers in a number of different countries. Coffee is imported from approximately 50 different countries. It is simply impossible for the retailer to know ahead of time which batch of product will come from which country. And it is irrelevant from the retailer's and the consumer's point of view because for all practical purposes the products that reach the consumer are identical.

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*This would include essentially all food retailers. Independent grocers participate in private label programs through their wholesalers.

A country of origin marking requirement would mean the retailer would have to maintain separate labels for every country which might supply the product. In addition it would be required to establish elaborate procedures to assure that the proper label was placed on each and every retail package. Assuming that this would be possible to do at all, it would obviously be extremely burdensome and costly. Moreover, it would serve only to confuse the consumer and to defeat the entire purpose of the private label program. The consumer looking at identical containers of privale label products would only become hopelessly confused if one were marked as being imported from country X and another from country Y, and a third from Country Z.

The problem becomes even more complex, and the proposal more untenable, when you consider that coffee beans from different countries are blended together to create the private label product. There are myriad combinations of source-country beans that can be, and are, blended for consumer consumption. Blends are changed constantly to maintain quality in light of changing supplies and costs. The idea of producing labels that could accurately reflect the source beans in a particular blend is extremely disconcerting for retailers. Such an effort would entail almost daily changes in labels. It would be an extraordinarily expensive undertaking and, again, would serve no useful purpose. The only result would be a great deal of consumer confusion along with higher coffee prices.

In addition to the foregoing, we are greatly concerned about the precedent that would be created if the roasting of nuts and beans was found not to create a substantial transformation in these products. There are a number of other cooking and food preservative processes that might be compared to roasting in the manner in which they transform the imported product. While we expect that each such process would have to be evaluated on its own merits in terms of "transformation," the Customs Service should be aware that its decision in this case may have far-reaching implications affecting large segments of the food processing and retailing industries.

To the extent that this proposal is a response to allegations that pistachio nuts imported from Iran are being roasted and sold under brand names that imply they are California products, the Customs Service should be aware of other potential statutory remedies that may be used to address this kind of abuse. The Food and Drug Administration (FDA) may prohibit the sale of products with false or misleading labels (21 U.S.C. sec. 331 and sec. 343). Section 5 of the Federal Trade Commission Act (15 U.S.C. sec. 45(a)(1)) gives the FTC jurisdiction over unfair or deceptive acts or practices. This provision enables the FTC to proceed against false and misleading advertising and labeling. There are a variety of enforcement mechanisms available to the FDA and the FTC under these statutes. If a deceptive or fraudulent act or practice is occurring with respect to the labeling or advertising of these nuts, it would be quite appropriate for these agencies to address the problem directly.

In conclusion, for all the forgoing reasons, FMI urges the service to affirm its prior rulings that the roasting of imported nuts and coffee beans results in a substantial transformation of these products thereby making the U.S. processor the ultimate purchaser for marking purposes.

Respectfully submitted,

Harry Sullivan
Senior Vice President
and General Counsel

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GENERAL FOODS MANUFACTURING CORPORATION
120 Wall Street, New York, N.Y 10005

April 12, 1985

Commissioner of Customs
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Attention: Regulations Control Branch, Room 2426

File: Country of Origin Marking of Imported Nuts,
Coffee Beans and Similar Agricultural Products

Sir:

General Foods Corporation and General Foods Manufacturing Corporation, hereinafter referred to as General Foods, present these comments in response to the Notice of Proposed Change in Country of Origin Marking which was published in 50 **Federal Register** No. 28 on Monday, February 11, 1985, at pages 5629 and 5630, under the title set forth above. General Foods is a substantial importer, roaster, blender, processor, and manufacturer of coffee beans, coffee products, and other articles containing or derived from coffee, with warehousing, manufacturing, and distribution operations in the United States and elsewhere. The corporation markets and promotes the products in question at the wholesale and retail levels, for use by distributors, wholesalers, commercial, institutional and retail consumers. General Foods currently imports, roasts, processes, manufactures, and distributes in excess of six million pounds of coffee and coffee products per year, and thus has a significant interest in both the subject matter of, and the ultimate decision rendered upon, the Notice of Proposed Change in Country of Origin Marking insofar as it affects the marking of coffee beans and other coffee products.

The Notice of Proposed Change in Country of Origin Marking solicits comments on a number of issues which are essentially corollaries to the primary question of whether or not "the roasting of nuts, coffee beans, and similar agricultural products, without more, results in a substantial transformation." As to that fundamental question, for the reasons set forth hereinafter, the corporation does not believe it is appropriate to extend the conclusions which may be derived from examination of the roasting of green coffee beans to "similar agricultural products," nor does it appear that the Customs Service has identified any rulings regarding the roasting of such similar agricultural products which are so related to those issued with respect to the roasting of pistachio nuts or green coffee beans that such rulings on other agricultural products must necessarily be addressed at this time.

Accordingly, inasmuch as the Notice of Proposed Change in Country of Origin Marking neither identifies any specific rulings which cover "similar agricultural products" nor otherwise summarizes the Customs Service practice with respect to such similar agricultural products, we respectfully submit it would be entirely appropriate to limit the scope of any decision taken upon consideration of the comments furnished in response to the Notice of Proposed Change in Country of Origin Marking to those products which are specifically identified therein, i.e., pistachio nuts and green coffee beans, and to apply such decisions only to the rulings identified in the **Federal Register** notice. To the extent that the Customs Service is contemplating reconsideration of any other rulings covering products other than pistachio nuts and coffee beans, or processes other than the roasting of such products, it would be far more appropriate and productive to secure comments with respect thereto by the publication of an explicit solicitation.

For the reasons stated above, General Foods has focused upon, and has addressed its comments to, the three rulings identified in the body of the **Federal Register** notice in question, as well as the one other ruling which appears to have been the precedent for those rulings: Headquarters letter ruling #726412, dated September 25, 1984, Headquarters letter ruling #724350, dated June 4, 1984, Headquarters letter ruling #722980, dated October 17, 1983, and Headquarters letter ruling #070395, dated June 6, 1983.

HEADQUARTERS LETTER RULING 724350

This June 4, 1984, letter ruling contains a brief discussion of the provisions of 19 C.F.R. §§ 134.25, 134.33, and 134.35, as well as the leading case of United States v. Gibson-Thomsen, 27 C.C.P.A. 267, C.A.D. 98 (1940) and citations to letter rulings 722980 and 070395. Although ruling 724350 states that the two other rulings "held that the roasting of coffee beans substantially transforms those beans into new and different articles of commerce . . . ," and reflects an understanding on the part of the Customs Service that the imported pistachio nuts in question are also roasted, the ruling does not contain any explicit statement on the question of whether or not the roasting of pistachio nuts involves a substantial transformation. In view of the suggestion in the Notice of Proposed Change in Country of Origin Marking which implies the possibility that at least some roasted pistachio nuts have been marketed in such a way as to amount to an affirmative misrepresentation of the original origin of the pistachios, it appears appropriate to note that, clearly, there is a valid and material distinction between a substantial transformation of an imported product in the United States which entitles that product to an exemption from marking with the name of the country of origin of the imported article, and the right to label a product so as to imply or state that such product is entirely the product of the United States.

HEADQUARTERS LETTER RULING 726412

This ruling sets forth the current position of the Customs Service on the primary question raised in the Notice of Proposed Change in Country of Origin Marking, i.e., "the roasting of pistachio nuts results in a substantial transformation." The ruling also notes that the position with respect to pistachio nuts "is consistent with our view that the roasting of coffee beans also effects a substantial transformation." The ruling does not contain any reference to, nor any description of, relevant facts regarding the roasting of pistachio nuts, nor is there any discussion of the similarities or differences in the two products from which it would be possible to determine the basis upon which Headquarters ruled that roasted pistachio nuts were subject to the rulings which were issued to cover the roasting of coffee beans. The ruling does expressly reflect an understanding that the roasting process is a substantial processing operation in the case of both products.

As indicated below, in greater detail, General Foods supports the conclusion that the roasting of coffee beans effects a substantial transformation, and, as stated above, does not purport to pass judgment upon the effect of roasting upon imported pistachio nuts in general. However, the corporation does believe that it is entirely appropriate, and essential, for the Customs Service to consider not only the nature of the two products before and after the performance of roasting, but also to assess the nature of the roasting operation performed on each of the products. On this point, we believe it is clear that neither of the two rulings on the roasting of pistachio nuts is to be regarded as either an authoritative discussion of the product itself, or of the processing operations to which that product is subjected; it appears entirely possible that the rulings on the pistachio nuts were issued without full consideration of these commercially significant differences and that, therefore, rulings 724350 and 726412 should be re-examined to determine whether there is an adequate basis in fact for extending the conclusions previously expressed by Headquarters with respect to coffee beans to the roasting of imported pistachio nuts.

HEADQUARTERS LETTER RULING 722980

This ruling, which is cited in the Notice of Proposed Change in Country of Origin Marking as the primary precedent for the position under review, addressed the question: "Whether coffee from several countries roasted in France is a product of France." In brief, the ruling includes a summary of the holding in the Gibson-Thomsen case, supra, and the notation that "[s]ubstantial transformation occurs when items are changed from producer goods - items that are neither used by, nor capable of use by the retail consumer - into consumer goods - items that have value and use to the consumer," citing Midwood Industries, Inc. v. United States, 64 Cust. Ct. 499, C.D. 4026 (1970). The ruling also contains the following observation: "The degree of technical skill or competence involved in the further work done on an item is also considered in determining whether substantial transformation has occurred."

Ruling 7227980 expressly states: "The process of roasting the coffee of several countries in France is a substantial transformation and the marking must reflect France as the country of production." This ruling does not, however, contain any discussion of the relevant facts which led to the conclusion expressed therein, and to some extent it is not at all clear whether the ruling covers the primary question presented in the Notice of Proposed Change in Country of Origin Marking, which is whether roasting alone can effect a substantial transformation of green coffee beans.

HEADQUARTERS LETTER RULING 070395

This June 6, 1983, ruling, cited in Headquarters Letter Ruling 724350, supra, appears to be the one ruling upon which the others discussed above were founded. In this regard, it is most important to note that it is the only one of the four rulings in question which discusses the operative facts in some detail, and it is also the ruling which is most clearly responsive to the primary question advanced in the Notice of Proposed Change in Country of Origin Marking. Accordingly, this ruling merits careful attention, and we think the principles enunciated therein, as well as the conclusions expressed, warrant examination.

The question presented for decision in ruling 070395 was whether coffee beans originating in third countries, but brought to Aruba in the green state for roasting, were substantially transformed by that roasting process into products of Aruba. In the course of reaching an affirmative conclusion on that question, Headquarters initially observed as follows:

> The leading decision involving this issue is Anheuser-Busch Brewing Assoc. v. United States, 207 U.S. 556 (1908), in which the United States Supreme Court enunciated the principle that, in order to effect a change in the country of origin of particular merchandise the growth, product, or manufacture of one country by further processing or manufacture in a second or other subsequent country, the processing or manufacture accomplished must result in a new and different article of commerce possessing a distinctive name, character or use substantially different from that possessed before such processing or manufacturing. As a matter of necessity, this issue must be resolved on a case-by-case basis, taking into consideration the nature and condition of the product as first exported, the processing or manufacturing accomplished in the second or subsequent country, and the nature and condition of the product as imported into the Customs territory of the United States, together with an examination of the avenues of trade and commerce in which the product in all of its various forms moves, as well as its name, character, and use at all stages of its movement up to and including final consumption.

After discussing, in summary, the various characteristics of the green coffee bean, its basic processing into an article of commerce, and the nature and effect of roasting, this conclusion was expressed:

> Headquarters, U.S. Customs Service, believes that the blending and roasting or roasting alone of "green" coffee beans clearly creates a new and different article of commerce and satisfies the criteria set forth in Anheuser-Busch, supra.
>
> Accordingly, for tariff classification purposes, Aruba would be considered the country of origin, despite the fact that the "green" coffee beans originated elsewhere.

ANALYSIS

For the purposes of discussing the subject Notice of Proposed Change in Country of Origin Marking, General Foods believes that certain of the principles set forth in Ruling 070395 are not only correct recitations of the applicable statutory precepts and judicial interpretations thereof, but also deserve repetition inasmuch as those principles are not clearly adverted to in the Notice of Proposed Change in Country of Origin Marking, nor cited with appropriate emphasis in the other rulings to which that Notice is directed:

> 1. "[T]o effect a change in the country of origin of particular merchandise the growth, product, or manufacture of one country by further processing or manufacture in a second or other subsequent country, the processing or manufacture accomplished must result in a new and different article of commerce possessing a distinctive name, character or use substantially different from that possessed before such processing or manufacturing."
>
> 2. "As a matter of necessity, this issue must be resolved on a case-by-case basis, taking into consideration the nature and condition of the product as first exported, the processing or manufacturing accomplished in the second or subsequent country, and the nature and condition of the product as imported into the Customs territory of the United States, together with an examination of the avenues of trade and commerce in which the product in all of its various forms moves, as well as its name, character, and use at all stages of its movement up to and including final consumption."

Notwithstanding the simplicity with which one can state the primary question posed in the Notice of Proposed Change in Country of Origin Marking, one cannot properly apply the principles expressed in Ruling 070395 in a simplistic fashion so as to confine the relevant inquiry to "roasting"; a full and complete evaluation of the other criteria enunciated in the quoted portion of the Anheuser-Busch case, supra is required. In other words, one cannot legally conclude that pistachio nuts have been substantially transformed for purposes of 19 U.S.C. § 1304 solely on finding that they have been roasted, and upon noting that the Customs Service has previously reviewed the roasting of green coffee beans and has held that roasted coffee beans were substantially transformed.

The decisions of the courts, including the Supreme Court, have made it indisputably clear that the determination of whether a given article has been substantially transformed by virtue of the performance of processing or manufacturing is one which can only be made upon after comparing the nature and condition of the article before processing or manufacture with the nature and condition of the article which has been processed and manufactured. It is necessary, also, to weigh the name, character, and use of the processed article as compared with the corresponding characteristics of the unprocessed material or article and to ascertain whether any, or all, of those characteristics have been substantially altered in the final product. At the same time, one must necessarily consider the nature and extent of the processing or manufacturing performed upon the article in question, although we find no judicial statement to date which indicates that the dispositive question for purposes of determining whether or not an article has been substantially transformed for purposes of 19 U.S.C. § 1304 is whether or not the processing itself is "substantial." The one case which most closely approached the "substantiality" of processing as a standard, Uniroyal, Inc. v. United States, 3 C.I.T. 220, 542 F. Supp. 1026 (1982), aff'd, ___F.2d___, (CAFC 1983), did not turn upon the nature of the processing alone; the two courts considered substantially all of the factors enunciated by the Supreme Court in the Anheuser-Busch case, supra, before characterizing the processing operations as insubstantial.

RELEVANT FACTS

The Customs Service has previously held, in Ruling 070395, that the roasting of coffee effected a substantial transformation, a conclusion correctly initiated upon consideration of the condition of the raw material prior to processing, i.e., green coffee beans are "totally devoid of aroma." The analysis set forth in the ruling also correctly noted the condition of the finished article produced by roasting, and the basic mechanisms of the roasting process which effected the change from a green to a roasted product: "[t]he particular roasting process selected releases the aromatic oils from the interior or core of the bean, driving them to the surface, and provides a characteristic aroma and color associated with the type of coffee bean or blend and roasting method chosen."

While the brief analysis of the relevant facts set forth in ruling 070395 is substantially correct, and although we anticipate the submission of a substantial quantity of technical information by the National Coffee Association of U.S.A., Inc. in response to your request for comments on the Notice of Proposed Change in Country of Origin Marking, we believe that it is important to set forth a qualitative analysis of the roasting process and its effect on green coffee beans which follows the criteria enunciated in the Anheuser-Busch case. From the discussion which follows, it should be clear that coffee is a unique product, which possesses virtually no characteristics shared by the pistachio nut, either in the condition of a raw green bean, in the various conditions in which a coffee bean exists in the course of roasting, or in the condition in which the coffee bean exists upon completion of roasting. Similarly, General Foods believes that the process of roasting which is applied to coffee is substantially dissimilar to that to which pistachio and other nuts are subjected; it is respectfully submitted that careful analysis of both products and the roasting processes associated with each is essential to a correct determination upon the question posed by the Notice of Proposed Change in Country of Origin Marking.

Coffee holds an important place in the consumer beverage consumption profile. Coffee provides the enjoyment that accompanies the consumption of a flavorful, aromatic beverage. It is the roasting of green coffee beans which imparts the varying sensory qualities which are required by consumers in brewed coffee. As different as consumer taste preferences are, there are an equal number of roasting parameters carefully designed to produce each taste preference.

The equipment used and conditions which are necessary to roast coffee to obtain a consumer-acceptable product are the subject of many patents. Without the roasting process, coffee would not be coffee as consumers know and enjoy it. A beverage made from green coffee would be wholly unpalatable for virtually all people, and would quite obviously have a taste far removed from the taste of coffee as it is presently consumed in the United States. Before roasting, coffee is uniformly characterized and identified as "green coffee," while, after roasting, it is then known generically as "coffee." Americans know roasted and ground coffee.

Roasting is the process during which high-temperature heat is applied to the green raw material, thereby causing the occurrence of the pressure reactions which give the beans their flavor profile. From the start of the roasting process, control of the roasting conditions must be carefully monitored and controlled with great precision to ensure that the flavor-generating reactions do occur. For example, the temperature of the roaster at the time the green beans first enter is critical. From the moment the beans enter the roaster, the internal pressure of the coffee bean escalates due to moisture-induced expansion. The internal pressure in the green bean must reach a high pressure, measured in pounds per square inch, in order for the reactions which produce the flavor characteristics of roasted coffee to occur. If the temperature of the roaster at the beginning of the roasting process is too low, the moisture in the green bean will escape before, or instead of, allowing the required internal pressure to be reached; the result will be inadequate, inefficient, and unsatisfactory flavor development. The roasting process applied to green coffee beans is thus quite clearly substantially more than just a mere "baking" of the beans.

The ability to use sophisticated technical knowledge of the roasting process permits that process to be controlled so as to deliver a spectrum of flavor qualities which are capable of satisfying a given consumer segment or need. A very dark roasting can deliver an espresso flavor, which many people like, while a very light roast will produce a mild quality preferred by others. In addition, it is important to note that some varieties of coffee taste better when roasted more lightly, whereas others produce a more pleasing flavor when subjected to darker roasts.

The technology of coffee roasting is continuously and constantly being improved and expanded. In recent years, high yield coffee was developed as the direct result of technical adaptation of the roasting and grinding processes. Careful control of higher temperatures applied for shorter periods of time cause the green coffee bean to assume a thermoplastic condition in which the bean is soft and pliable. This condition allows the bean to expand dramatically, while at the same time allowing the pressure reactions which generate the flavor characteristics to occur, resulting in a roasted bean having a dramatically lower density than is otherwise possible. However, this high yield process requires roasters which are capable of precise heat transfer control in order to avoid burning of the outer portion of the coffee bean, and to prevent under or overprocessing. The very fast roasting and concomitant density reduction increases the finished coffee product's concentration of extractable coffee solids and aroma, thus enhancing the ability of the coffee to deliver more flavor.

The roasting process thus requires careful control of many reaction parameters to produce desirable flavor, aroma, and physical product qualities. The roasting process alone effects a substantial transformation in the green coffee bean which is designed to satisfy the consumer's expectations and needs with respect to the ultimate product, and does, in fact transform an inedible raw article without aroma into a prepared product with new characteristics of aroma, and suitability for beverage use, which are entirely the result of the roasting process.

Although one might at first assume that processes other than roasting, which are subsequently applied to coffee beans, have no direct relevance to the questions posed in the Notice of Proposed Change in Country of Origin Marking, it is clear that the performance of such other processes are necessarily related to the manner in which roasting is conducted. Note, for example, that roasted beans are ordinarily ground, most commonly to improve the extraction of flavor and taste in the household coffee brewer. The type of grind, or particle size, and distribution, must be accurately engineered, depending upon the type of coffee product and the type of brewer in which the product is to be prepared. As examples, note that a high yield coffee product must be carefully ground in order to maintain the benefits of roasting, and that a stove-top or electric percolator works most effectively with a coarse grind, whereas an automatic drip or espresso machine functions best with finer grinds.

CONCLUSION

General Foods respectfully submits, based upon the information and analysis set forth herein, that Headquarters, United States Customs Service, should reaffirm the decision set forth in Headquarters ruling letter 070395 and maintain the position that the roasting of green beans substantially transforms them into a new and different article for purposes of 19 U.S.C. § 1304. General Foods further submits that it would be entirely inappropriate and improper to extend such a determination to any other product without full consideration of the characteristics of that other product in its raw condition, the nature, extent, expertise, and technological level employed in roasting or otherwise processing such a product, as well as the commercial name, character, and use of the finished product.

Respectfully submitted,

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Mark L Austrian
Jeffrey W King
John B Williams
Paul C Rosenthal

Thomas J Hamilton
Jeffrey L Leiter
Robert L Meuser
Thomas A Hart, Jr
Michael R Kershow
Jeffrey S Beckington
David P Hackett
Judith L Oldham
Jeanne M Forch
Laurence J Lasoff
Christopher J MacAvoy
Donald J Patterson, Jr
Kathleen T Weaver
Patrick J Coyne
Randall J Bramer
Kevin F Hartley
T Michael Jankowski
K Michael O'Connell
B Michael Hodge
Kurt J Olson

April 12, 1985

BY HAND

Regulations Control Branch
United States Customs Service
1301 Constitution Avenue, N.W.
Room 2426
Washington, D.C. 20229

Re: Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products; Notice of Proposed Change and Solicitation of Comments, 50 Fed. Reg. 5629 (1985)

Dear Sir:

Enclosed please find three copies of the statement submitted on behalf of The Biscuit & Cracker Manufacturers' Association in connection with the above-referenced proposal.

Very truly yours,

Richard S Silverman

Richard S. Silverman
Counsel to The Biscuit & Cracker
Manufacturers' Association

Enclosure

Before the
United States Customs Service

COUNTRY-OF-ORIGIN MARKING OF IMPORTED NUTS, COFFEE BEANS AND SIMILAR AGRICULTURAL PRODUCTS

Submitted by
The Biscuit and Cracker Manufacturers' Association

These comments are submitted by The Biscuit and Cracker Manufacturers' Association ("B&CMA"), the national association of the cookie and cracker industry, in response to the notice of proposed change in country-of-origin marking requirements for imported nuts, coffee beans, and similar agricultural products. The U.S. Customs Service ("Customs") published this notice in the Federal Register on February 11, 1985 (50 Fed. Reg. 5629).

Customs is proposing to reconsider its current uniform and established practice of holding that the process of roasting substantially transforms nuts, coffee beans and similar agricultural products. Under present practice, because such goods are considered to have been substantially transformed, retail packages of nuts and coffee beans need not bear a country of origin marking to indicate that component ingredients have been imported.

B&CMA urges Customs to sustain its uniform and established practice. B&CMA believes that a change such as that being considered by Customs is inconsistent with U.S. law and longstanding Customs policy.

As noted in the proposal, Customs has traditionally defined "substantial transformation" as a change which results in a new and different article of commerce with a new name, character, or use. 50 Fed. Reg. 5629 (1985). This test, expressly mentioned in Customs' regulations (see 19 C.F.R. § 134.35 (1984)), is a codification of the test announced in 1940 by the U.S. Court of Customs and Patent Appeals in United States v. Gibson-Thomsen Co., Inc., 27 C.C.P.A. 267, C.A.D. 98 (1940). 1/

In applying the "new name, character, or use" test, Customs has also relied on subsequent judicial interpretations of the Gibson-Thomsen test in its analysis of "substantial transformation" questions. In Midwood Industries, Inc. v. United States, 64 Cust. 499, C.D. 4026, appeal dismissed, 57 C.C.P.A. 141 (1970), the Customs Court elaborated on the "new use" criterion of Gibson-Thomsen by distinguishing between "producers' goods" and "consumers' goods." Most recently, the U.S. Court of International Trade ("CIT") (the successor to the Customs Court) reaffirmed the "new name, character, or use" test, while holding that "minor" processing operations should not be regarded as "substantial transformation." Uniroyal, Inc. v. United States, 3 CIT 220, 542 F. Supp. 1026 (1982).

Applying these tests, Customs has consistently ruled that the process of roasting, whether it be macadamia nuts, pistachio nuts or coffee beans, substantially transforms the imported article into a new and different article of commerce. An examination of the rulings shows that Customs' determinations are based on proper legal considerations. In Ruling no. 724350, dated June 4, 1984, and Ruling no. 726412, dated September 25, 1984, Customs applied the Gibson-Thomsen test and held that roasting of pistachio nuts resulted in a substantial transformation and no country-of-origin marking was required. Customs has also held that domestic roasting of imported macadamia nuts results in a similar transformation. Ruling no. 726040, dated August 30, 1984.

1/ In Gibson-Thomsen, the test was expressed as whether an imported article was used in the manufacture of a new article having a different "name, character and use." Significantly, the Customs regulation codifying this test describes it disjuntively as whether the processed article has a new "name, character or use." 19 C.F.R. § 134.35 (1984) (emphasis supplies). This characterization has been endorsed by the courts. See, e.g., Data General Corp. v. United States, 3 CIT 182, 185-86 (1982); United States v. Int'l Paint Co., 355 C.C.P.A. 87, 93, C.A.D. 376 (1948).

Such rulings concerning the roasting of nuts reference prior decisions involving the roasting of coffee beans. In Ruling no. 070395, dated June 6, 1983, Customs held that green, raw, crude, or unroasted coffee beans are a separate and distinct article of commerce from roasted coffee beans. Notably, one of the results of the roasting process, said Customs, was that aromatic oils were released from the core of the bean, giving the bean the characteristic aroma and color associated with the type of bean or blend or roasting method chosen. Customs further stated that blending and roasting or roasting alone of green coffee beans "clearly creates a new and different article of commerce."

Customs cited both Gibson-Thomsen and Midwood Industries in its next determination that the process of roasting coffee beans is a substantial transformation. Ruling no. 722980, dated October 17, 1983. Customs found, inter alia, that the process changed the unroasted coffee beans into a new article having a new name, character, or use, and that the process was responsible for changing the raw product from a "producer goods" item that is neither used by, nor capable of use by, the retail consumer, into a "consumer goods" item that has value and use to the consumer. A further refinement of Customs' position was set forth in Ruling no. 722360, dated June 6, 1984, in which Customs ruled that the process of making fully roasted beans from either unroasted or semi-roasted beans was a substantial transformation.

Contrasted with the preceding determinations, Customs has held that semi-roasting of green, raw, crude, or unroasted coffee beans does not, per se, create a new and different article of commerce. Ruling no. 073467, dated April 30, 1984. Customs expressed the opinion that semi-roasting might amount to a substantial transformation, but should involve more than a process intended only to kill harmful bacteria and/or insects in preparation for entry into a country where final blending and roasting or roasting alone is accomplished. This ruling evidences Customs' practice of distinguishing between a full roasting process and lesser operations.

Thus, Customs has consistently held that roasting of nuts and coffee beans amounts to a substantial transformation of the imported article; no country-of-origin marking is therefore required. There is no evidence demonstrating that such a past, consistent practice is clearly erroneous. It should therefore be continued.

Moreover, the proposed change would impose significant burdens on U.S. industry and increase the cost to consumers of all products affected. A primary consideration for Customs in this instance should be whether the scheme proposed will accomplish the goal of the regulation without disproportionate economic and social costs.

Here, the goal of the proposal is to help consumers make informed choices by indicating on the package that certain products contain imported ingredients. An important consideration is what means best accomplish this goal. B&CMA suggests that Customs' proposal will produce undesirable results.

Coffee presents a good example. Coffee roasters import beans from many different countries and buy varying amounts from each source depending upon availability, price, quality, and other factors. To create a particular blend of coffee many different types of coffee (all with different countries of origin) will be combined to suit consumer preferences. Blends may be changed constantly to maintain quality in light of changing supplies and costs.

To inform consumers of the origin of the particular beans in each can of coffee, a coffee roaster would be required to first implement an intricate system of inventory control. This would be needed to track the progress of the different beans as they move from the imported "raw" bean state through the roasting and blending processes, ensuring that each bean's identity is preserved for proper disclosure to the consumer.

Then, to properly label each can, the coffee roaster must maintain a substantial array of labels so that any conceivable combination of source countries can be displayed on the can.

Assuming that it is even logistically feasible for coffee roasters to follow such burdensome procedures, the costs of meeting the marking requirements will be passed on in the form of higher retail prices. Before imposing such requirements and increased costs, Customs should attempt to ascertain whether consumers will view the "benefits" of marking as outweighing the costs. B&CMA suggests that rather than aid consumers in choosing retail products, the proposed change is more likely to increase consumer confusion as well as prices.

In fact, B&CMA believes that the scope of Customs' proposal qualifies it as a "major rule" as defined by Executive Order 12291 (48 Fed. Reg. 13,193 (1981)). B&CMA respectfully suggests that before Customs takes further action on its proposal, it conduct the preliminary and final regulatory analyses required by Executive Order 12291.

B&CMA is also concerned that the proposal may create great uncertainty in the food processing industry as a whole if the roasting of nuts and coffee beans is now found not to effect a substantial transformation. A number of processes used throughout the food industry that may be considered comparable to the transformation effected by roasting could be subject to the change Customs proposes. Customs should carefully consider the extended effects of altering a uniform and established practice upon which many businesses have relied and on the basis of which have structured many business practices.

For all of the above reasons, B&CMA urges Customs to maintain its uniform and established practice with respect to roasting operations.

Sears, Roebuck and Co.
Corporate Governmental Affairs
Sears House
633 Pennsylvania Avenue, N.W.
Suite 600
Washington, D.C. 20004

Randolf H. Aires
Vice President

202/737-4800

April 12, 1985

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Regulations Control Branch
U.S. Customs Service
Room 2426
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Notice of Proposed Change in the Country of Origin
Marking of Imported Raw Nuts, Coffee Beans
and Similar Agricultural Products
(February 11, 1985, Federal Register, Page 5629 et. seq.)

Dear Sirs:

In the above referenced Federal Register notice you propose that your previous rulings, which held that the roasting process does result in the substantial transformation of imported raw nuts, coffee beans and similar agricultural product, be rescinded. If these rulings are rescinded, all such agricultural products which are imported raw and then processed in the United States by roasting would not be considered substantially transformed in this country for country of origin purposes.

Sears, Roebuck and Co. has the following written comments in response to this Federal Register notice:

NUTS ARE SUBSTANTIALLY TRANSFORMED BY ROASTING

It is Sears position that the roasting process does result in a substantial transformation of raw nuts. We believe that the character of these nuts is significantly changed through roasting. Raw nuts are generally purchased for cooking purposes. In fact, with the exception of raw cashews which are sold in Sears stores in Hawaii, the only nuts sold by weight at Sears are in the roasted form. While it can not be said that nuts are inedible in their raw form, customers seem to prefer purchasing roasted nuts as opposed to raw nuts to eat out of hand. Thus, the entirely different usage of nuts in raw versus roasted form supports

ALLSTATE INSURANCE GROUP · COLDWELL BANKER REAL ESTATE GROUP · DEAN WITTER FINANCIAL SERVICES GROUP
SEARS MERCHANDISE GROUP · SEARS WORLD TRADE

the position that the roasting process substantially alters the character (i.e., taste and texture) of this food product. Indeed, the country of origin regulations do not require that the substantial transformation of the product in question result in a new or different product. As is the case here, a substantial transformation can occur when a product's use and/or character is changed.

IMPLEMENTATION DIFFICULTIES

If Customs determines that the roasting of raw nuts does not substantially transform these products, the great difficulty in implementing a requirement that the containers of such products be marked to indicate the country of origin in accordance with Customs regulations (19 CFR 134) should be taken into consideration.

Sears purchases various roasted nuts from four domestic sources. These roasted nuts have been both foreignly and domestically grown. Sears cannot request of its sources that it would like to purchase roasted nuts which have been grown in a specific country. Instead, Sears must purchase whatever nuts are available.

At its stores, Sears places the roasted nuts in various large bins. Upon request, the nuts are scooped into paper bags, weighed and given to the customer. The paper bags used to hold these roasted nuts are the same bags used for the sale of candy sold in bins by weight.

As a practical matter, it would be difficult, if not impossible, to determine where the roasted nuts in a given bin were grown. Indeed, one bin may contain nuts of the same variety which have been grown in up to ten different countries. The bin of "mixed nuts" (mixture of up to five different nuts) could include nuts from more than ten countries. To come up with a system that would allow Sears to identify on the container (paper bag) where the nuts were grown would be a major feat.

Labeling the paper bags with "Imported" would not completely solve the problem since some types of nuts sold by Sears are grown domestically. However, this alternative would be more workable than the system under the proposed rule for those types of roasted nuts that Sears sells which our sources only purchase from foreign sources. Another alternative would be to label the bags with a statement that the nuts are "Imported and/or Domestic." This would put the consumer on notice that some nuts may be of foreign origin.

In Sears view, the most favorable alternative would be to require that the "Imported and/or Domestic" label be placed on the bins containing the nuts. Not only would this alternative be the easiest to implement, it would best facilitate the underlying purpose of the country of origin rules, which is to put the consumer on notice as to where a particular product originates, before a purchase is made. Placing the country of origin designation on the paper bags, as would be required under the proposed rule, would not place the consumer on notice until after he or she has purchased the product, thus, defeating the intent of the regulations.

It boggles the mind when one must consider how many different bags Sears would need on hand at its stores if each bag had to specify the country of origin as set forth in the proposed rule. Sears employees would have to perform juggling acts to make certain that the right nuts ended up in the right bag. Ultimately, the increased cost of producing a variety of bags would be passed on to the customer in the form of an increase in the cost of the nuts. It is Sears position that any benefits to be derived by the consumer by promulgating this proposed rule are outweighed by the tremendous, if not impossible, burden of implementation.

SUMMARY

For the reasons stated above, Customs should not rescind its previous rulings that the roasting process used by importers significantly transforms imported raw nuts. However, if the rulings are rescinded, Sears requests that there be an exception to the country of origin labeling requirement for roasted imported nuts in cases (e.g., bin sales) where such labeling would be overly burdensome. In such cases, we would like to see the country of origin requirement allow for the bins containing the roasted nuts to be labeled "Imported" or "Imported and /or Domestic," as appropriate.

Sincerely,

Randolf H. Aires

Randolf H. Aires
Vice President
Corporate Governmental Affairs

RHA/blf

NABISCO
BRANDS INC

April 11, 1985

APR 12 1985

Regulations Control Branch
Room 2426
United States Customs Service
1301 Constitution Avenue N.W.
Washington, D. C. 20229

Re: Comments of Nabisco Brands, Inc
to Customs Service Notice of
Proposed Change in Country of
Origin Marking, 50 Fed-Reg. 5629,
February 11, 1985

Gentlemen:

Enclosed are three copies of the aforesaid Comments of Nabisco Brands, Inc.

NABISCO BRANDS, INC.

By James Kirkman
James A. Kirkman III
Vice President - Law
Nabisco Brands USA

JAK/elf
Encls.

COMMENTS BY NABISCO BRANDS, INC. REGARDING A PROPOSED RULE CHANGE IN COUNTRY OF ORIGIN LABELING

For over 70 years Nabisco Brands, Inc. ("NBI") and its predecessor companies have been processing and distributing domestic and foreign grown nuts under the famous "Planters" trademark. In 1984 NBI imported over 15 million pounds of raw nuts for processing and distribution in the U.S., and thus it has a substantial interest in the proposed rule change.

Planters nuts have always been marketed as products of the U.S. regardless of the country of origin of the raw nuts. Under the aforesaid proposal, the countries of origin of the various imported nuts contained in Planters products would have to be indicated on product labels.

Summary of Comments

1. The disclosure of foreign origin of imported nuts would not confer any benefit upon the public or fulfill the purpose of §304 of the Tariff Act of 1930--i.e. to enable consumers to choose between purchasing domestic and foreign articles. Conversely, however, the proposal's disclosure requirements would inevitably raise the cost of many varieties of nuts to the public, and thus would, overall, have a net detrimental effect upon consumers.

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2. Imported raw nuts undergo a very substantial transformation in the U. S. and thus do not come within the purview of §304 of the Tariff Act.

No Demonstrable Need for a Change

As set forth in the proposal, the genesis of the sweeping change contemplated by Customs to require designation of foreign origin on nuts, coffee beans and similar agricultural products is a complaint by domestic pistachios nut growers that Iranian pistachios are being sold by some distributors under brand names which misrepresent the products as California grown.*

Other than these allegations by this very narrow and special interest group, Customs apparently has no evidence that any other distributors of nuts or consumers are dissatisfied regarding the lack of foreign origin designation on imported nuts.

No Choice Regarding Domestic or Foreign Nuts of the Same Variety and Therefore No Benefit Resulting From Disclosure of Foreign Origin

The lack of consumer interest in the country of origin of nuts undoubtedly stems in large part from the simple fact that virtually all the varieties of nuts imported into the U.S. are not grown domestically, and conversely, virtually all domestically grown nuts are not imported.

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*If, in fact, distributors of Iranian pistachio nuts are deceptively passing them off as California grown product, California pistachio growers may themselves pursue private redress under §43a of the Lanham Act [15 USC §1125(a) (1975)] or seek administrative relief under the Federal, Food Drug and Cosmetic Act or similar California food laws, both of which prohibit food labeling which is false or misleading.

Pistachios and filberts are the only nut varieties grown in the U.S. which involve substantial foreign importation, yet these two varieties over the years have accounted for less than one percent of the total U.S. consumption of nuts.

Hence, as a practical matter, consumers in over 99% of their nut purchase decisions do not have the ability to choose between U.S. or foreign grown nuts of the same variety.

Since as stated by Customs the purpose of §304 for requiring a declaration of foreign origin "is to make consumers aware of the country or origin of articles so they can choose between buying domestic and foreign articles," it is clear the proposal will not serve any such purpose or confer any benefit upon consumers.

One could argue, of course, with respect to pistachios and filberts, that despite their miniscule share of total nut consumption, the proposal could provide consumers with meaningful information. We believe, however, that any such benefit is totally insignificant when weighed against the higher costs consumers would inevitably have to bear for a wide variety of nut products if foreign origin labeling were required.

Higher Costs of Many Varieties of Nuts is Inevitable if Foreign Origin Labelling is Required.

More significant than the absence of any benefit to the public is the fact that the proposal would clearly increase the cost of many varieties of nuts to the public. For example, NBI sources cashews, by far the largest selling imported nuts, from India, Brazil and several East African countries and, like other processors, purchases them on the basis of quality, price and availability. As with any agricultural commodity, unpredictable growing conditions play the crucial role regarding these parameters, and thus, it is not possible for a processor to determine far in advance where to obtain the lowest priced and highest quality cashews.

NBI's ability to react quickly and effectively to changing market conditions is essential to effect purchases upon the most favorable terms.

Since there is a substantial lead time for packaging, which is in cans, we could not maintain our sourcing flexibility and at the same time comply with the requirement of a declaration of foreign origin, since, unless we restricted ourselves to a single country of origin, we would not know at any time in the future the country or counries of origin of the cashews to be used in a particular production lot of product.

Compounding the problems which would be caused by a foreign origin declaration requirement is the fact that nuts, e.g. cashews, are stored on a fungible basis, and thus the inventory of cashews at any given time probably consists of Indian, Brazilian and East African varieties, all of which would be intermingled and unidentifiable as to country of origin.

As a practical matter, in order to comply with the proposed foreign origin declaration requirement, NBI would either have to limit the source of cashews to a single country (which is probably impossible) or carry an inventory of cans which would have all the possible permitations regarding country of origin (e.g. if five countries are potential sources, there are twenty-five possible declarations) and set up a new storage and handling system where cashews can be segregated by country.

If the problems and potential cost increases caused by foreign origin labeling regarding cashews appear serious, we invite Customs to contemplate the almost mind-boggling ramifications of foreign origin labeling with respect to our mixed nut product which contains, in order of predominance, peanuts (grown in the U.S.), cashews (grown in India, Brazil and/or various East African countries), Brazil nuts (grown in Brazil), almonds (grown primarily in the U.S.), filberts (grown in Turkey and/or the U.S.) and pecans (grown in the U.S.)!

Without question, the proposed labeling requirement would put increased cost pressures on processors such as NBI which would ultimately have to be reflected in higher prices to consumers.

In return for these higher costs, the public would get a label which would advise them in which foreign country the nuts were grown--information which no one has any evidence consumers need or want and even more importantly, information that clearly is not the type contemplated by Section 304 of the Tariff Act where, as here, there are virtually no United States grown varieties.

Processing After Importation Results in a Substantial Transformation

In ruling #724350, dated June 4, 1984, and ruling #726412, dated September 25, 1984, the Customs Service held that the process of roasting imported raw nuts effected a substantial transformation of these goods into a new and different article of commerce. This ruling was based on the fact that nuts, after processing, are completely different from the imported raw nuts.

Many reactions take place during roasting. These include removal of moisture, decrease in free amino nitrogen, decrease in total sugars, development of brown color, evolution of CO_2, aldehydes, and ammonia and, in the case of oil roasting, absorption of frying oil. Finally, roasting causes a clumping of the aleurone grains and protein bodies, which contain key flavor precusor compounds, and this reaction formulates and fixes the desired flavor in the nut. Unless the roasting is done properly the resulting product will not have the characteristics the consumer expects.

The absorption of frying oil during oil roasting has a significant effect on the organoleptic qualities of nuts. Dry roasted nuts absorb no oil during roasting and to compensate dry roasted nuts marketed under the Planters label have a special coating which provides flavor enhancement. Most nuts, whether oil roasted or dry roasted, also have salt added to the surface to increase the flavor.

Roasting Nuts Is A Complex Process Which Cannot Be Duplicated By The Consumer

To achieve optimum flavor, color and texture, nuts must be cooked to a point just short of over-roasting. Too much roasting produces a bitter flavor, a color that is too dark and a texture that is too hard. However, under-cooking will not only fail to achieve the optimum characteristics, but the compounds producing the characteristics will be unstable, resulting in a rapid deterioration in the quality achieved. In addition, adequate roasting is necessary to deactivate the lipooxidate enzyme found in nuts, which reacts with fat, causing rancidity.

Roasting of nuts requires precise control of temperature, time, pH and moisture. Product stability is a direct function of temperature and pH level during roasting. Moisture at the time of temperature increase adds to stability, while moisture before and after roasting leads to loss of flavor and texture. Too rapid roasting tends to degrade the oil, while roasting too slowly allows flavor components to volatize and escape. The requirements with regard to each of these elements varies with each type of nut, and adjustments in these elements have to be made for each lot of a given type of nut. Some processors now use computers to control these variables in the roasting process.

Oil used in roasting provides protection against the loss of volatile flavor components. Often processors add a coat of oil after roasting for additional protection. Oil used for cooking and coating must be carefully selected and maintained and the manner of selecting and maintaining the oils is usually a trade secret for a processor.

During dry roasting nuts do not have the protection against loss of flavor components afforded by the oil in oil roasting and special procedures are necessary to compensate for this lack of protection. Dry roasted nuts are cooked in as many as four different heating zones. The air in the ovens is carefully controlled and circulated so the flavor components escaping in one heating zone can be exposed to and reabsorbed by the nuts during a later stage of cooking.

Thus, it can be seen that the roasting and other processing of nuts requires a high degree of skill and results in a product which cannot be duplicated by consumers purchasing raw nuts.

Finally, perhaps the most significant indicia of roasting's substantial nature and importance is the simple fact that NBI spends tens of millions of dollars annually on the process.

Conclusion

The purpose of the foreign origin declaration requirement under §304 of the Tariff Act of 1930 is to enable consumers to choose between buying foreign or domestic articles. Other than for a very small segment (less than one percent) of total nut consumption, consumers in fact have no choice between foreign and domestic varieties of nuts because they are either all domestic or all foreign in origin; hence, the proposal would not fulfill the purpose of §304 or confer any practical benefit upon consumers.

As demonstrated, however, the proposal would inevitably raise the cost of many imported varieties of nuts to consumers.

Nuts are transformed substantially by the roasting process. The process, upon which NBI spends tens of millions of dollars annually, is complex and effects substantial chemical and organoleptic changes in raw nuts.

Nuts, both domestically grown and imported, have been sold in the U.S. under the Planters label for most of this century. The countries in which the nuts are grown differs with the type of nuts, and some types are grown in more than one country. The U.S. public's loyalty to the Planters brand of nuts for 70 years clearly indicates its reliance on the processor and not the domestic or foreign source of these products.

Therefore, Nabisco Brands, Inc. respectfully requests that the Customs Service continue its rule that nuts, coffee beans and similar agricultural products which are imported raw, then processed in the U.S. by roasting, may subsequently be marked and marketed as products of the U.S.

Chock full o'Nuts
REG U S PAT OFF

DR LEON PORDY
CHAIRMAN OF THE BOARD
AND
CHIEF EXECUTIVE OFFICER

370 LEXINGTON AVE
NEW YORK, N Y 10017
TEL 212 532 0300
TWX 710 581 5301

April 8, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

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Dear Sirs:

Chock Full o'Nuts joins in the comments and objections expressed by the National Coffee Association of U.S.A., Inc. on March 26, 1985 to the Customs Service's proposed change in Customs Regulations (19 CFR Part 134) relating to Country of Origin Labeling. These comments are submitted in accordance with the Notice of Proposed Changes, 50 Fed. Reg. No. 29 (February 11, 1985) and 19 CFR subsection 177.10 (c) (2).

Chock Full o'Nuts is a relatively small company engaged in the roasting and marketing of premium coffee. Our business is dependent on importing green coffee beans from a variety of different countries and roasting and blending them into our distinctive and well-known brand of coffee. Since it is often necessary to change the specific blend on a weekly and even daily basis in order to keep the ultimate product consistent, it would be impossible to assure that each can or package of coffee contained a Country of Origin Label that accurately reflected its contents.

Furthermore, the process of roasting coffee beans is complex and requires careful and skillful control by the roaster to achieve proper results. Accordingly, we believe the roasting process should be considered, as it has been up to now, as producing a substantial transformation of the raw beans.

Accordingly, we respectfully request, as has the National Coffee Association of U.S.A., Inc., that roasted coffee be considered a new article of commerce which is different in name, character and use from green coffee and exempt from the proposed regulation. We believe that no public policy or consumer benefit would be served from requiring Country of Origin Labeling of roasted coffee.

Sincerely,

Leon Pordy MD

Leor Pordy, M.D.
Chairman of the Board

LP/ed

Superior. The Beverage Specialist

A CONSOLIDATED FOODS COMPANY • RESPONSIVE TO CONSUMER NEEDS

JAMES D. COCKMAN
President & Chief Executive Officer

April 8, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

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Dear Sirs,

I hereby submit the following comments on the Customs Service's proposed changes in Customs Regulations (19 CFR Part 134) relating to Country of Origin Labeling. My comments are submitted in accordance with the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and 177.10 (c) (2), Customs Regulations, 19 CFR 177.10 (c) (2).

We believe that the proposed change in Country of Origin Labeling regulations should not apply to coffee, as most coffee (99%) is imported as green beans and is roasted and blended in the United States. Virtually all coffee sold in the United States is imported. A FACT WHICH IS WELL KNOWN TO ALL CONSUMERS, THEREFORE, THERE IS NO BASIS FOR THE CONCERN EXPRESSED BY THE CUSTOMS SERVICE THAT DOMESTIC AGRICULTURAL PRODUCERS MAY BE ADVERSELY AFFECTED.

We believe that the consumers' best interests would not be served by rescinding the present regulations. In fact, consumers would ultimately end up paying considerably more for this product because roasters may use coffee from as many as twenty or more different exporting countries to prepare their blends weekly, or in some cases even daily.

Blending is absolutely essential for several reasons. The two most important are:

Change in supply, and consistency of quality and price.

Under the proposed rules, coffee roasters would be required to change labels whenever blends are changed. This requirement (if possible) would be extremely costly and in many cases may well put smaller coffee manufacturers and roasters out of business.

SUPERIOR COFFEE COMPANY • 990 SUPREME DRIVE, BENSENVILLE, ILLINOIS 60106 • (312) 860-1400

Page 2.
April 8, 1985

This is contrary to everything that we are attempting to accomplish in this country today, particularly in view of the extraordinary budget deficit and the need to keep people in this country working. Even if roasters were able to use "list-every-possibility" labels, consumers certainly would not be any better informed. Their wallets, however, would certainly be lightened when economic forces would eventually cause the extra costs of compliance to be passed on to them.

Surely, we don't need another fiasco like the breakup of Ma Bell, which was supposedly done on the premise that it would benefit the consumer. My telephone bill hasn't gone down -- has yours?

I sincerely trust that you and your staff will see the wisdom in not making any changes in the present regulations for coffee. I would be pleased to discuss this if you so desire.

Respectfully submitted,

James D. Cockman

James D. Cockman

/rmm

cc: Paul Simon
U.S. Senator
462 Hart Senate Office Building
Washington, D.C. 20510

Alan J. Dixon
U.S. Senator
316 Hart Senate Ofice Building
Washington, D.C. 20510

Henry J. Hyde
U.S. Congressman - 6th District
2104 Rayburn House Office Building
Washington, D.C. 20515

Dan Rostenkowski
U.S. Congressman - 8th District
2111 Rayburn House Office Building
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Superior.

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Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Gentlemen:

In accordance with the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and 19 CFR § 117.10(c) (2), we submit the following comments.

We contend that the proposed changes in country of origin labeling regulations should not apply to coffee.

In the first place, except for a very small portion grown in Hawaii, all green coffee is imported into the United States- a fact well known to consumers. Therefore, in the case of coffee, we do not believe that the Customs Service' concern about the sale of imported agricultural products as U.S. products is justified.

Secondly, since green coffee is imported from some 50 different countries, most roasted coffee sold in the United States is blended from coffees imported from many different origins. Depending on availability, price differentials, seasonal variations, weather conditions, and many other factors, roasters do not always use the same components to produce a consistent blend. Under the proposed regulations, a roaster could no longer use pre-printed containers unless he would assume the prohibitive cost of stock-piling and correctly applying a huge variety of "Country of Origin" labels. Alternatively, the roaster could fix his blend using coffee from only the very largest producer - countries. Prices for coffee from these few countries would rise unrelated to quality values. Not only would consumers and roasters suffer higher costs, but smaller exporting countries would be unfairly penalized as their product would be less in demand.

.....cont'd

SUPERIOR COFFEE COMPANY / 990 SUPREME DRIVE, BENSENVILLE, ILLINOIS 60106 / (312) 860-1400
A CONSOLIDATED FOODS COMPANY

7

Superior.

Page 2
Regulations Control Branch
4/8/85

Thirdly, we believe that the Customs Service was correct when it ruled on October 17, 1983 (Sec. 722980) that the process of roasting coffee is a "substantial transformation" and therefore green coffee becomes a "new article" when roasted. Green coffee, afterall, cannot be consumed as a food or beverage. It is the chemical changes caused by the roasting process which produce the flavor and aroma and thereby create a new product-Roasted Coffee.

Sincerly,
SUPERIOR COFFEE COMPANY

Samuel B Heron
Samuel B. Heron
Dir. of Purchasing

SBH/mme

The Coca-Cola Company
Foods Division

NORMAN A. MANDEL
SENIOR ATTORNEY AND
ASSISTANT SECRETARY

ADDRESS REPLY TO
P.O. BOX 2079
HOUSTON, TEXAS 77252
713/888-8102

April 8, 1985

Regulations Control Branch
Room 2426
U. S. Customs Service
1301 Constitution Avenue, N. W.
Washington, D. C. 20229

Re: Proposed Change in Country of Origin Labeling

Dear Sir:

Coca-Cola Foods, a Division of The Coca-Cola Company supports and endorses the comments submitted by the National Coffee Association of USA, Inc. submitted March 26, 1985.

We also wish to point out that although the Federal Trade Commission has a rule requiring disclosure of foreign origin, there is an exception to such disclosure if the foreign product is a type which is not produced in the United States. Certainly coffee would fit into this exception.

We see no reason for the proposed rule, and urge that it not be adopted.

Yours truly,

Norman A. Mandel

NAM/vs

CABLE ADDRESS
LONRAYCO

TELEX NUMBERS
I T T TELEX NO 422276
R C A TELEX NO 233272

Lonray Inc.
77 WATER STREET
NEW YORK, N.Y. 10005
(212) 785-0800

April 8, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue
Washington, D.C. 20229

12 1985

Gentlemen:

Our firm trades in various commodities and specifically in green coffee.

We have been advised that there are certain changes being considered by customs regarding coffee imports.

We believe that any imposition of requirements that consumer packages itemize the country of origin included in that package will cause unnecessary hardships and also will increase retail prices. Since this is the case, we believe the consumer can only be adversely affected with such a move.

We submit this comment in regard to those proposed changes in country or origin marking requirements related to coffee which are contained in the Federal Register (Feb. 11, 1985, FR Vol. 50, No. 28 page 5629).

If you require any additional information, please feel free to call on the writer.

Very truly yours,

LONRAY INC.

John M. Bederka
Vice President

JMB:tlb

association of the U.S.A. Inc.
230 Park Avenue • New York, N.Y. 10169 • 212-986-9415
Cable: TEAFRONT

April 8, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

28

Gentlemen:

This Association, founded in 1899 is composed of 150 members serving the tea industry who conduct and handle about 90% of the total quantity of tea imported into and distributed within the United States. We file these comments regarding the proposal for change in the rules related to country of origin marking (Federal Register, Feb. 11, 1985 p. 5629).

It is our conviction that any rule change which would mandate that all retail packages of tea contain the identity of the country of origin of every tea contained in the consumer package would be cost unjustified, provide nothing of value or use to the consumer, and unnecessarily increase the cost of tea to the public.

Our reason is simple and clear. No tea of any kind is grown commercially anywhere within the United States, its territories or possessions. The purpose of origin marking is stated correctly and clearly in the release to which this comment is addressed:

> "The purpose of these requirements is to make consumers aware of the country of origin of articles so that they can choose between buying domestic or foreign articles."

As to tea, there is no choice. All tea comes from foreign countries.

It has never been the general practice of the tea industry to set forth the country of origin on the retail package of tea except on specialty teas promoting specific foreign growths. We have never heard of any complaint from any source as to the absence from the label of this information.

The federal law in question expressly states, in the statute itself, that the Secretary may authorize the exception of an article from the requirements of marking if:

> "An ultimate purchaser . . . must necessarily know the country of origin of such article . . ."
> (19 U.S.C. S 1304)

The regulations promulgated by the United States Custom Service expressly authorized this exception where the consumer knew the country of origin (10 C.F.R. S 134.32h).

We are satisfied that American consumers know that all tea comes from abroad and remember that, in part, our American Revolution resulted from international trading in tea culminating, as to one famous shipment in the arrival of chests of tea at the port of Boston.

Tea comes from many foreign countries. This Association publishes a list of tea imports by quantity and countries of origin derived directly from the official figures of the United States Government. A copy of the cumulative record for December 1983/84 is attached.

When imported, various growths, qualities and types of tea are blended by packers in the United States. Each tea packaging company aims to present to its consumers products with uniform physical and brewing attributes, as well as consistent taste. They also strive to do so at prescribed cost/price requirements. To achieve consistency over time in a wide range of products, tea processors find it necessary to choose among many available teas and to blend them in varying proportions; adding, omitting or changing components as needed. Thus, not only the identity of specific teas in use but their order of prevalence in the blend may change weekly or even daily. The number of countries providing tea in a single blend may typically vary from eight to twenty. However, even the smaller number, from a long list of possible sources, represents many optional combinations.

For processing tea, the burdens of compliance with the country of origin labeling are obvious and many. For example, processors may find it necessary to:

1. Prepare and maintain stocks of packaging with many optional lables (list of countries of origin), or resort to very costly methods of stick-on labels. Moreover, teas are also available in many package forms and sizes; in cartons, canisters, metal containers and the like.

2. Suffer the consequences of work stoppage every time blends and labels chnage.

3. List all possible ingredients on a single, all-inclusive label, and find it difficult to abide by it.

4. Fix blends with fewer countries of origin thereby foregoing opportunities to take advantage of varying supplier's prices and qualities.

5. By necessity and as a last resort, limit importation from certain countries, particularly those that are undeveloped, with international consequences and repercussions of its own.

All such options and other undersirable consequences would increase the complexity and cost of production, to the detriment of processor and consumer alike, and in the end not benefit anyone concerned.

We trust that, with due regard for all these factors, any proposed regulations will continue to treat tea as an exception to the country of origin marking requirements.

Very truly yours,

Jack Painter

Jack Painter, President
Tea Association of the U.S.A., Inc.

JP:tkk
enclosure

Tea Association of the U.S.A., Inc.
230 Park Avenue
New York, New York 10169

TEAS PASSED FOR ENTRY IN MONTH OF
DECEMBER 1984 and 1983
WITH COMPARATIVE YEAR-TO-DATE FIGURES
(IN POUNDS)

VARIETY	DECEMBER		YEAR-TO-DATE	
	1984	1983	1984	1983
BLACK TEAS				
North India	329,561	102,472	3,045,543	2,640,494
South India	121,394	32,506	2,989,653	2,050,120
TOTAL INDIA	450,955	134,978	6,035,196	4,690,614
Sri Lanka	1,468,533	1,633,992	23,324,705	19,119,433
Ceylon & India Blend	3,786	17,548	59,441	91,161
Indonesia	2,851,173	3,675,445	37,518,685	30,406,786
Formosa Black	574,699	464,223	9,559,876	5,655,651
Rwanda	139,237	101,322	1,937,118	1,566,327
New Guinea	---	---	212,346	84,042
Zimbabwe	202,694	23,003	648,134	684,415
Kenya	463,819	606,453	8,471,238	10,262,933
Malawi	157,984	357,770	2,716,410	3,253,027
Tanzania	91,134	81,772	1,350,459	1,055,964
Mozambique	127,713	556,223	5,187,536	9,592,211
Brazil	344,425	483,436	7,943,929	8,392,199
Misc. Black Blends	1,215,554	674,325	12,057,199	11,700,398
Misc. Black Blends(DECAF)	143,296	96,613	2,002,503	444,839
Turkey Black	---	---	---	55
Earl Grey	4,684	59,244	153,886	200,760
Earl Grey (DECAF)	---	1,158	22,305	6,459
Thailand	---	---	---	35,274
Lapsang Souchong	1,241	3,344	58,940	39,613
Nepal	110	55	1,046	550
Argentina	578,270*	2,892,686	41,396,660	33,337,759
Russian	55	110	663,754	1,104,913
Ecuador	---	67,694	894,733	857,654
China Black	1,523,358	1,603,101	18,504,622	14,130,032
Scented Black	12,967	36,374	321,613	267,500
Scented Black (DECAF)	4,850	5,479	13,964	12,798
Bangladesh	---	---	44,696	84,416
Mauritius Black	---	---	484,651	627,873
Iran	86,015	---	191,422	18,314
Uganda	---	---	46,678	41,819
Zaire	---	80,855	---	289,187
Guatemala	---	---	21,620	35,200
Azores	---	71	220	71
Australia	646	---	3,686	---
TOTAL BLACK TEAS	10,447,198	13,657,274	181,849,271	158,090,247

DECEMBER TEA FIGURES (Continued)

VARIETY

	DECEMBER		YEAR-TO-DATE	
	1984	1983	1984	1983
GREEN TEAS				
Japan	469,679**	779,068	4,805,691	4,000,420
Formosa Green	1,598	---	131,990	146,877
India Green	---	22,048	76,831	120,946
China Green	313,571	32,822	5,843,284	194,239
Brazil Green	---	---	146,714	130,215
Russian Green	---	31,658	564,196	634,996
Thailand	---	---	222,223	---
Miscellaneous	---	---	79,908	---
TOTAL GREEN TEAS	784,848	865,596	11,870,837	5,227,693
OOLONG TEAS				
Formosa	89,981	99,172	898,556	646,766
Canton (Formosa)	3,284***	5,160	103,360	62,642
Scented Canton (F)	798	4,013	35,409	42,404
China Canton	11,600****	14,355	386,582	385,277
Scented China	---	---	1,125	1,875
TOTAL OOLONG TEAS	105,663	122,700	1,425,032	1,138,964
MIXED TEAS				
Jasmine	9,448	59,565	887,075	687,419
Spiced Tea	4,132	7,658	63,653	34,297
Spiced Tea (DECAF)	---	2,028	2,767	3,163
China Jasmine	10,985	70,073	443,402	484,052
Mixed Tea	---	---	225	4,905
Indonesian	---	---	238	---
TOTAL MIXED TEAS	24,565	139,324	1,397,360	1,213,836
GRAND TOTAL	11,362,274	14,784,894	196,542,500	165,670,740
BY DISTRICTS				
New York	6,700,961	8,842,138	123,096,831	102,065,656
New Orleans	4,661,313	5,942,756	73,445,669	63,605,084
TOTAL POUNDS	11,362,274	14,784,894	196,542,500	165,670,740

NOTE: Does not include these pounds of tea rejected in December:

*88,184 *** 48
** 22 ****1,925

Farr Man Coffee Inc.

April 9 , 1985

RECEIVED
APR 11 1985

27

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue
Washington, D.C. 20229

Gentlemen:

We are a green coffee importing firm, a member of both the Green Coffee Association and the National Coffee Association. Our role is one of service as suppliers to the coffee manufacturing industry.

We wish to comment in regard to proposed changes in country of origin requirements for coffee contained in Federal Register (February 11, 1985: FR Vol. 50, No. 28, page 5629).

We wholly support the presentation made by Mr. George E. Boecklin on March 26, 1985 in reference to this matter.

Since coffee is not a domestic product (except for a negligible Hawaiian crop) elaborate country of origin markings would not afford the consumer the opportunity to buy U.S. versus foreign products (per your release).

It is our opinion that imposing these extensive marking regulations would accomplish nothing save hardship to the manufacturer and ultimate increase in retail prices. The origins and qualities of coffee are so many and varied in blended items (as most are) that this sort of marking would be of no value to consumers.

Very truly yours,

J Williams

Mary Williams, Vice President
FARR MAN COFFEE INC.

/JMI

TWO WORLD TRADE CENTER • SUITE 3050 • NEW YORK, N. Y. 10048
TEL. (212) 912-8720 • TELEX RCA 235043: ITT 424496: TWX 710 5815 294

PEANUT BUTTER
and
NUT PROCESSORS
ASSOCIATION

9005 Congressional Court
Potomac, MD 20854
Tel: (301) 365-4080

JAMES E. MACK, CAE
MANAGING DIRECTOR & GENERAL COUNSEL

PRESIDENT
LARRY J. PRYOR
Lance, Inc.
Charlotte, NC

VICE PRESIDENT
EDWARD AZAR
Azar Nut Co.
El Paso, Tex.

DIRECTORS
EDNA C. BALLIETTE
King Nut Co.
Solon, Ohio

DANIEL BATTAGLIA
August Battaglia
Processing Co.
Suffolk, Va.

JOHN A. BELETIC
The Peterson Nut Co.
Cleveland, Ohio

EARNEST L. BOURNE, JR.
Uncle Jesse's, Inc.
Brooklyn, NY

H. NILE BRISSON, JR.
Peanut Processors, Inc.
Dublin, NC

STEPHEN DODDRIDGE
Chipper's Nut Co.
Santa Fe Springs, Cal.

JAMES T. HINTLIAN
The Leavitt Corp.
Everett, Mass.

JAMES C. KALBACH
Edwards-Freeman, Inc.
Conshohocken, Pa.

JOSEPH H. KAPLAN
Johnson Nut Co.
Hopkins, Minn.

A. SCOTT KOEZE
Koeze Co.
Wyoming, Mich.

DAVID P. LEAHY
The Kroger Co.
Highland Heights, Ky.

E.L. NICOLAY
Kar Nut Products Co.
Ferndale, Mich.

JAMES R. POND
Producers Peanut Co.
Suffolk, Va.

RALPH J. RODDENBERY
W.B. Roddenbery Co., Inc.
Cairo, Ga.

MATT VALENTINE
J.B. Sanfilippo & Son, Inc.
Elk Grove Village, Ill.

ROBERT T. WRIGHT
The Hillson Nut Co.
Cleveland, Ohio

WILLIAM M. WRIGHT
California Almond
Growers Exchange
Sacramento, Cal.

April 10, 1985

[illegible] 10 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, NW
Washington, D.C. 20339

Dear Friends:

Re: Proposal of January 28, 1985 Published in Federal Register February 11, 1985 Page 5629 Pertaining to "Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products."

This is in response to the proposal as referenced above. The purpose is to express the opposition of the Association to this proposal.

The membership consists of processors and packers of nuts in various forms and suppliers to the industry. Our members use both domestically produced nuts and imported nuts. The nuts upon receipt are sorted, cleaned and processed in various ways including roasting, salting and other processing. A major product of the industry is mixed nuts which product is regulated by the Standards of Identity and Fill of Container of the U.S. Food and Drug Administration. In order for a product to be labled as mixed nuts among other things the package must contain at least four different types of nuts although frequently the mixture involves five or more types of nuts. (If packaged in a transparent package weighing two ounces or less, the package may contain not less than three nuts.)

It is recognized that those who proposed this regulation to the Customs Bureau well may not have considered the consequences. From the Customs Bureau announcement it appears that the instigator was the producers and packers of one particular nut (pistachios) seeking to accomplish a particular objective of discouraging imports from a specific country (Iran). Several years ago their appeal was to the Congress to require this type of identification which Congress wisely rejected notwithstanding the high feeling nationwide which existed at that time which still continues against the present government of Iran. This matter, however, runs much deeper and broader than pistachios and Iran. It involves numerous other nuts and their processing and packing in this country which has gained broad public acceptance. It is contended that it should not be the function of government to allow a group to unfairly injure others by attempting to curtail import competition from a particular country because almost all Americans rightfully possess a hostile opinion about the government of Iran. Legally the proposed regulation does not meet the statutory criteria for labeling of the country of origin as the sorting, cleaning, roasting (sometimes in oil and sometimes dry roasted), salting and/or other processing does constitute processing; and the nuts once they have been subjected to such processing become a United States product.

In the Federal Register announcement of February 11, the following statement appears:

> "Customs has been requested to rescind these rulings on the basis that the roasting process does not result in a substantial transformation of an agricultural product which has otherwise attained the character in which it will be sold to consumers prior to importation."

This is not correct. The request for action is based on a false premise. When a nut is roasted the chemical makeup of the oil in the nuts is altered. The roasting causes a substantial transformation to occur. It would be misleading to the consumer to list the origin of such a nut product as it could cause the consumer to believe that the nuts had been roasted and seasoned in that country of origin.

Notwithstanding all of the foregoing, we contend that a group seeking to accomplish an end not intended by the statute should not be allowed to subvert the purpose of the statute in order to eliminate its competition.

It is recognized that there is a difference between impossibility of compliance with a regulation and compliance with great difficulty. In this instance the difficulty of compliance in practical terms would be an impossibility of compliance, and we want to illustrate what is meant by this statement. A major portion of mixed nuts are packed in tin containers which must be purchased a long time in advance in substantial quantity and the contents of the container must be printed on the can to comply with the regulation of the Food and Drug Administration. This alone at times is difficult but it is not impossible. As previously stated a can of mixed nuts usually contains at least four and frequently five or more different nut types. A major nut used is the cashew. Manufacturers purchase them all from abroad but some come from India, some from Brazil, some from Mozambique, some from Tanzania and various other countries. Manufacturers usually purchase by type, quality and price. However, as a practical matter, in order to comply with the proposed regulation, a processor of mixed nuts well might have to select one country and only one country from which to acquire the nuts for the mixture to be sure that misbranding does not occur. However, a particular country may have an unusually good crop one year and a short and poor quality crop another year. Under current processing practices, a manufacturer (processor) may have in his storage warehouse cashew nuts from several different foreign countries. Filberts are produced in Oregon. They also are produced in Turkey. The Oregon producers understandably prefer to sell their filberts on an inshell basis as they get a higher price. They shell primarily those filberts which will not meet the inshell standards. U.S. nut processors, however, are purchasers of shelled filberts. Whether they buy from Oregon or Turkey is heavily dependent on what Oregon suppliers have to offer. Macadamia nuts are produced in Hawaii and also imported from Australia. Most of the time the peanuts and almonds which U.S. processors use are all of United States production but there are limited imports, and when there is a short crop in the United States substantial quantities can be entered. For example, in 1981 300,000,000 pounds of shelled peanuts were imported. The proposed change would increase the cost of packaging imported nuts and at times actually interfere with the packaging of the best quality nuts because a nut processor in order to be sure of compliance with the regulation would have to limit his sources of supply. This unnecessarily would cause him at times to pay more for the nuts from his selected country sources (rather than to buy them wherever the terms might be the most attractive) and at times actually downgrade quality so as to be sure and use nuts only from those sources.

The point is that U.S. manufacturers cannot be sure in advance as to the country of origin of the various nuts. While the percentage mixture content of the package will remain the same, the country of origin of the different nuts frequently varies from day to day and hour to hour. If, among other things, the product is to consist of 50 percent cashews, all of the mixed nuts packed in a morning may be cashews from India with the afternoon pack involving cashews from Brazil or conceivably some of both; and the proliferation and combinations are compounded when several different nuts are involved. Indeed it would be absolutely impossible to have metal cans embossed with the correct country of origin of every nut in the can.

From all of the foregoing it is apparent that the proponents seek to establish a nontariff trade barrier which is indeed what would occur should the proposal be approved. Further it is believed that the country (countries) of origin holds little if any interest for the consumer of mixed nuts. Instead the interest is in obtaining a high quality, attractive and palatable product with the nut mixture as represented on the container actually being contained in the package. In addition, however, many consumers genuinely are interested in nutritional labeling which in itself can require considerable label space. The proposal if approved would require much space to be devoted to providing information of little or no interest to consumers while restricting available space for information which is optional but frequently of strong interest to consumers, specifically nutritional labeling.

Overall the California Pistachio Commission approach for dealing with its problem concerning Iran is a negative approach. It is suggested that a simplier more constructive and positive approach instead of a negative appeal would be preferable. Why not accentuate the positive of promoting the labeling of California pistachios as being "California" pistachios. The California Pistachio Commission seemingly already has a big budget and advertising program to encourage consumers to ask for California pistachios.

The United States government while having a free trade policy in general does recognize gross unfairness in two areas and in recent years has given relief to industries under the countervailing duty law and the antidumping law which involves an appeal to the International Trade Commission with the Departments of Commerce, the Treasury and the President also getting involved. If Iran is paying a bounty or subsidy to permit Iranian pistachios to be sold in the United States and it has caused injury, then the countervailing duty law could be invoked. Likewise, if Iran is selling pistachios in the United States below the price for which they are sold in Iran or in other countries and injury has resulted to the United States pistachio industry, then there can be resort to the antidumping statute. Both of these statutes proceed on an individual country basis which seemingly is a path which the United States pistachio industry should follow inasmuch as it seems to believe that it has a special problem involving one country namely Iran.

As to those who have proposed this change to the Customs Bureau, let us say forgive them because they do not understand fully the significance of what they have proposed and then reject this unwise proposal; otherwise the results will be disastrous to the nut packing industry and this is not an exaggeration.

Respectfully submitted,

James E. Mack

James E. Mack

JEM:mts

LANCE INC.

MANUFACTURERS OF SNACK FOOD PRODUCTS SINCE 1913

O. BOX 32368
ARLOTTE, N.C. 28232
HONE (704) 554-1421

April 5, 1985

RECEIVED
APR 10

Regulations Control Branch
Room 2426
U. S. Customs Service
1301 Constitution Avenue, N. W.
Washington, D. C. 20339

Re: Proposal of January 28, 1985 Published in
Federal Register February 11, 1985 Page 5629
Pertaining to "Country of Origin Marking of
Imported Nuts, Coffee Beans and Similar
Agriculture Products"

86

Gentlemen:

This is in response to the referenced proposal. The purpose of our letter is to express strong opposition to this proposal.

We are manufacturers of snack foods including the processing and packaging of nuts, both individual and mixed nut packages. The requirements of this proposal would be all but impossible to fulfill. At times we use cashews from more than one country in any given day. They may be from Brazil, China, India, Tanzania or several other origin countries. When filberts are available from Oregon we use them, but part of the year filberts must be imported. Packaging materials must be purchased and printed far in advance of the time that we know the country of origin of some nuts.

We can understand that those who proposed this change were seeking to label those nuts arriving in this country from Iran. I do not believe they realized the repercussions on our industry in all the nuts that we use. Neither do I believe that they realize that pistachios may not meet the criteria for labeling the country of origin because of the processing done in the United States.

We urge the defeat of this proposal.

Sincerely submitted,

L. J. Pryor
Director of Purchasing

LJP:cd

Continental Coffee Products Company
A Division of CFS Continental
2550 North Clybourn Avenue
Chicago, Illinois 60614
(312) 477-7600

Western Union Telex No. 25-3736
Cable Address: CONTICAFE CHICAGO

James H. Bankard
President

April 2, 1985

Regulations Control Branch
Room 2426 - U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Sirs:

As the President of the Continental Coffee Company, a nationwide coffee manufacturer for the foodservice industry, I wanted to submit comments on the proposed changes in Country of Origin Marking regulations and the application of the Proposed changes to roasted coffee. My comments relate to the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and 19 CFR § 177.10(a) (2).

My company has been a manufacturer of fine coffees since 1915 and, as such, has established a reputation for providing an excellent, consistent, quality cup of coffee to the consumers of our product. Ours is a smaller roaster within the U.S. roasting community and, as such, survives in part by buying coffees from a great many countries throughout the United States. We have relied upon the excellence of our blendmasters to buy coffees from throughout the world and to mix these coffees to a pre-determined taste preference. Since coffee is an agrarian product with changes in taste from lot to lot, we do some of this blending on the production floor at the time of manufacture. As this is a normal procedure for many roasters, it becomes almost impossible to clearly identify the Country of Origin on each package since the product being put in a package in one 20-minute period may be different in terms of source country from the product being made just one or two hours later.

Your proposed changes could adversely impact foreign trade and move against policy set by the Department of State. The alternative of buying one or two pre-determined Country of Origin coffees would effectively deny many smaller third world producing countries a market for their product. This effectively would undermine the intention of the International Coffee Organization to help all third world coffee producing countries, not just the three or four largest coffee producers. This substitution limitation would also raise consumer prices for our product since we would be unable to easily substitute alternatives for a given high-priced product.

A further alternative identified by my staff would be to list all 50 different producing countries on the side of each package. I fail, however, to see how this procedure would benefit consumers in their decision making process. In the coffee foodservice industry in which I compete, the consumer of the product...the restaurant diner...never sees the package since it is prepared in a back kitchen. Thus, the consumer has no idea of the source of the product and would not benefit in any way by the proposed change in labelling. Yet someone, probably that consumer, would have to pay the cost of the additional labelling.

I don't understand why we need change from our current practices! Virtually no coffee is grown in the United States (99% or more of the coffee roasted and sold in the United States is imported). It is apparent to consumers that coffee is an imported item whose use has no negative impact on domestic agricultural producers. The regulation proposal is a step in the wrong direction. I respectfully submit that for a roasted coffee product, the Country of Roasting should continue to be regarded as the Country of Origin as previously held by the Customs Service in its' October 17, 1983 ruling (No. 722980).

I further feel that the roasting and blending process should continue to be regarded as a "substantial and complex manufacturing process which results in a substantial transformation" to produce a new Article of Commerce. This was determined to be the case in the Custom Service's 1983 ruling.

Coffee roasting is a significant and complex process. It requires skilled professionals working in a difficult blending environment to insure uniform quality and consistent taste. The coffee industry is one of the very few industries that continues to employ "blendmasters" to coordinate the procurement of green coffees from throughout the world...to insure its' correct blending...to oversee its' roasting, grinding, and packaging...and to insure that the product received by consumers is consistent with the blendmaster's pre-determined standards. It is an art, as well as a complex manufacturing process!

I respectfully request that the U.S. Customers Service rescind its' proposed changes as contained in the February 11, 1985 announcement and allow the industry to continue to function in a way that has been helpful to third world producing countries and beneficial in cost and quality to end consumers in the United States.

Sincerely,

CONTINENTAL COFFEE PRODUCTS COMPANY

Jim Bank

James H. Bankard
President
JHB/gjd

SPRAGUE & RHODES COFFEE TRADING CORP.
NINETY-NINE WALL STREET
NEW YORK, N.Y. 10005

CABLES: SPRAGRODES
TELEPHONE: (212) 269-2400

April 8, 1985

APR 10 1985
23

Regulations Control Branch,
Room # 2426,
U.S. Customs Service,
1301 Constitution Avenue,
Washington, D.C. 20229.

Re: Proposed changes in country of origin marking requirements related to coffee which are contained in the Federal Register (Feb. 11, 1985: FR Vol. 50, No. 28 - page 5629).

Gentlemen:

We have been advised by the National Coffee Association of the USA and by the Green Coffee Association of New York City, that the Government is considering imposing a packaging law on the coffee industry that will be virtually impossible to comply with.

As cans, jars and packages of coffee are composed of between five and ten different types of coffees from various producing countries, it would substantially increase the price of coffee to the consumer for the following reasons:

Labels and packaging are ordered well in advance, which means that the roaster would have to limit himself to the types of coffees mentioned on the label. As coffee is grown in virtually every tropical area in the world, the roaster would then lose his flexibility in being able to buy coffees from whatever country would offer him the most advantageous price. Producers realizing that the same roasters are locked into their having to buy their coffee from them, they could then manipulate the price as well.

Since the FDA maintains the quality standards for coffee imported into the USA, I question as to whether the consumer would be willing to pay more money for a product for receiving information which will not serve any useful purpose to him.

With coffee being a foreign product, there is no question as to whether the consumer has a choice between a domestic or foreign product. We can see where this proposed ruling may have some effect when dealing with other goods that are produced domestically and internationally, but cannot comprehend the necessity for its use in the coffee industry.

In our opinion this law would serve no worthwhile purpose.

Therefore, we respectfully request that coffee not be made part of this proposed ruling.

Thanking you for your attention in this matter, I am,

Respectfully yours,

SPRAGUE & RHODES COFFEE TRADING CORP.

Eugene Yale David

Eugene Yale David
President

cc: National Coffee Association of the USA.
Green Coffee Association of N.Y. City.

Wm. B. Reily & Company, Inc.
640 MAGAZINE STREET, NEW ORLEANS, LOUISIANA

April 8, 1985

RECEIVED
APR 10 1985
22

Regulations Control Branch
Room 2426
U. S. Customs Service
1301 Constitution Avenue, N. W.
Washington, D. C. 20229

Gentlemen:

As a large regional coffee manufacturer representing our industry since 1902, we would like to speak out on the subject of "country-of-origin labeling" for roasted, ground, and packaged coffee.

At hand is the issue of individual labeling of each country of origin represented in the coffee blend. To require such labeling would impose an undue burden on the coffee roaster, and further difficulties for consumers, importers, and exporting countries themselves. I will address these problems as follows:

1) Due to variations and frequent changes in the coffée blend itself, it would be virtually impossible to have any control on packaging materials inventory.

2) Roasters would be forced to cut back on the number of components in a blend, causing significant taste changes for consumers and having a profound effect on the way coffee is marketed in the U. S.

3) Many smaller exporting countries would suffer due to the fact that coffee buyers would be limited to the number of substitute green coffees it could handle in its' blends.

In conclusion I would like to add that over 99% of the coffee processed in the U. S. is imported. There is no conflict with any domestic agricultural producer as far as coffee is concerned. Processed coffee has substantially changed characteristics from raw green beans and we believe that this commodity should be regarded as a U. S. origin product.

Respectfully yours,

WM. B. REILY & COMPANY, INC.

Curtis M. Zimmerman

Curtis M. Zimmerman
Manager Commodity Operations

Member: Southern Coffee Association
National Coffee Association

cc: The Honorable Lindy Boggs
U. S. House of Representatives
2353 Rayburn Building
Washington, D. C. 20515

The Honorable Robert L.Livingston
U. S. House of Representatives
2437 Rayburn Building
Washington, D.C. 20515

National Coffee Association of U.S.A., Inc.
120 Wall Street, New York, NY 10005
Telephone (212) 344-5596

March 26, 1985

MEMO TO: Members of N.C.A.

FROM: George E. Boecklin, President

SUBJECT: U.S. CUSTOMS PROPOSAL RE: COUNTRY OF ORIGIN LABELING...

On February 11, 1985, the U.S. Customs Service published a notice in the Federal Register proposing to rescind previous Customs rulings which held that "nuts, coffee beans and similar agricultural products which are imported raw, then processed in the United States by roasting, may subsequently be marked and marketed as products of the United States" 50 Fed. Reg. 5629. (See NCA Newsletter February 18, 1985).

This proposed change may have a profound effect on the way in which roasted coffee is marketed in the United States. Previously, Customs had ruled that the roasting of raw coffee beans transformed these products into new and different articles of commerce. Based upon this ruling, a roaster in the United States was considered to be the ultimate purchaser of the imported beans and the resulting coffee was exempt from Customs' country of origin marking requirements.

However, as some domestic agriculture producers have objected to the previous rulings, the Customs Service has proposed to rescind its earlier decisions that the roasting of coffee beans in the United States results in a U.S. product.

Because of the potential impact of the proposed change on affected industries, Customs has invited public comments to be presented on or before April 12, 1985.

The National Coffee Association has filed today the enclosed comments on the proposal.

In view of the substantial and far-reaching implications of the proposal on the U.S. coffee industry and its consumers, all members of the industry should consider sending their own comments to Customs.

It may also be helpful for coffee firms to bring this matter to the attention of members of the Congress in their states, with the suggestion that they contact the Customs Service on their behalf.

***

enc.

National Coffee Association of U. S. A., Inc.
120 WALL STREET, NEW YORK, N.Y. 10005 • (212) 344-5596 • CABLE: NACOFAS NEW YORK

GEORGE E. BOECKLIN
President

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THOMAS D. WESTFELDT
Westfeldt Bros., Inc.

March 26, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Sirs:

The National Coffee Association of U.S.A., Inc., submits herewith the attached comments on the proposed changes in Country of Origin Marking regulations, and the application of the proposed changes to roasted coffee. These comments are submitted in accordance with the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and 19 CFR § 177.10(c) (2).

Sincerely,

George E. Boecklin

George E. Boecklin
President

GEB

Enc.

MAR 29 1985
1

Comments by the National Coffee Association Concerning Proposed Changes in Country of Origin Labeling

The National Coffee Association of U.S.A., Inc. ("NCA") submits the following comments on the Customs Service's proposed change in Customs Regulations (19 CFR Part 134) relating to Country of Origin Labeling. These comments are submitted in accordance with the notice of proposed changes, 50 Fed. Reg. No. 28 (Feb. 11, 1985), and § 177.10(c)(2), Customs Regulations, 19 CFR 177.10(c)(2).

NCA is the national trade organization of the U.S. coffee industry. Its membership includes 56 green coffee dealers and importers and 77 coffee roasters, representing 90 percent of the coffee sold in the United States. These comments, submitted on behalf of the Association and its members, deal with the possible application of the proposed rule changes to the labeling of roasted coffee. Certain individual members of the NCA may submit separate comments dealing with additional aspects of the proposed rule changes.

Summary

NCA believes that the proposed changes in country-of-origin labeling regulations should not apply to coffee which is imported as green beans and is roasted (and in most cases further processed) in the United States. Virtually all coffee sold in the United States is imported -- a fact which is well known to consumers -- and consequently with respect to coffee there is no basis for the concern expressed by the Customs Service that domestic agricultural producers may be adversely affected. Also, most coffee sold in the United States is blended to satisfy the roaster's requirements, and a roaster at various times may use coffee from as many as 20 or more different exporting countries. Roasters may change the composition of their blends weekly, or even daily, to reflect changes in supply, quality and prices of coffee. Under the proposed rules, they would have to change labels whenever blends are changed, which would be both expensive and highly impractical; or standardize their blends and forego the opportunity to take advantage of additional supplies, better quality, or prices; or prepare labels which list all conceivable countries from which coffee might be imported, and take pains to include in all blends at least some coffee from each such country.

Even if roasters were able to use "list-every-possibility" labels, consumers would not be enlightened by adoption of the proposed regulation. However, their wallets may be lightened when, ultimately and inevitably, economic forces cause the extra costs of compliance to be passed on to them.

Contrary to the contentions of those who requested a recission of the earlier ruling -- and they are not engaged in roasting coffee -- the roasting of coffee is a delicate and complex process resulting in important chemical changes which make roasted coffee a new and different article of commerce with new characteristics. The NCA submits that for a roasted coffee product the country of roasting should continue to be regarded as the country of origin, as previously held by the Customs Service in its October 17, 1983 ruling (#722980).

The result of application of the proposed regulation to roasted coffee may in addition serve to disrupt the flow of international trade. Any regulation which would alter the ability of roasters to choose coffee imports freely from all countries might raise political issues for United States foreign policy and might affect relations of the United States with the International Coffee Organization, an organization of coffee-producing and consuming nations which seeks to stabilize the price of coffee by establishing a system of export quotas. The United States is by treaty a member of the International Coffee Agreement, and would therefore not wish to undermine its proceedings or basic functions.

Comments

1. Virtually no coffee is grown in the United States. More than 99% of the coffee roasted and sold in the United States is imported. (A very small quantity is grown

in Hawaii, less than one-tenth of one percent of all coffee consumed in the United States.) Coffee is imported from about 50 foreign countries. The unroasted foreign coffee is subject to the statute and regulations -- that is, it is labeled (in bulk) according to the country of origin. Moreover, under the International Coffee Agreement, Article 43(7), to which the United States is a party, the coffee must be accompanied by a "certificate of origin," issued by the producing country.

Once released from Customs Service custody, most coffee beans are transformed through roasting, processing, blending and repacking by domestic coffee companies prior to being sold under distinctive brand names. Beans from a number of foreign sources are blended before or after roasting, ground and further transformed by the same domestic processor. The processor thus converts the resulting blend into a multiplicity of forms -- ground roast coffee, typically repackaged in metal cans; instant coffee (the manufacture of which is a multi-step process with optional blending of its own), typically repackaged in glass or plastic jars; decaffeinated versions of both ground roast and instant coffee (the manufacture of which includes the extraction of caffeine from beans by a solvent, water-based or other process); as well as acid neutralized coffee, filter bags containing ground roast coffee, and the like. In light of such substantial transformation, the processor may be considered an "ultimate purchaser" of the imported coffee within the meaning of 19 C.F.R. § 134.1(d), relieved of further country-of-origin marking responsibilities. ("The 'ultimate purchaser' is generally the last person in the United States who will receive the article in the form in which it was imported. . . .")

The purpose of the country-of-origin marking requirements, as noted in the Customs Service's summary of proposed rules, "is to make consumers aware of the country of origin of articles so that they can choose between buying domestic or foreign articles." 19 U.S.C. § 1304. The Customs Service expressed concern about the sale of imported agricultural products as United States products, and noted the "concern of the domestic agricultural producers." None of these factors justifies a rule change with respect to coffee. Consumers are already aware that virtually all coffee is imported, and there is no choice between a domestic and a foreign product to be made by coffee consumers. No roaster would have any reason to pass off an imported coffee as an American product, and the small Hawaiian coffee growers, who have a ready market for whatever coffee they can grow, have no reason to fear improper foreign competition. Consequently, there is no reason to change the existing country of origin labeling rules with respect to roasted coffee.

2. Roasting coffee results in a substantial transformation because there is a change in name, character and use. In its October 1983 coffee ruling (#722980), the Customs Service ruled that France was the appropriate country-of-origin of a coffee blend roasted in France using beans from several producing countries:

> "The process of roasting the coffee of several countries in France is a substantial transformation and the marking must reflect France as the country of production."

The Customs Service based its ruling on its finding that the roasted coffee became a "new article" with different value and uses to consumers:

> "Substantial transformation means that a manufacturing process is performed on an item so that the item loses its identity and becomes an integral part of a new article with a new name, character and use (United States v. Gibson Thompson Co., Inc., 27 CCPA 257). Substantial transformation occurs when items are changed from producer goods -- items that are neither used by, nor capable of use by the retail consumer--into consumer goods--items that have value and use to the consumer (Midwood Industries, Inc. v. United States, 64 Cust. Ct. 499).

The 1983 determination by the Customs Service with respect to coffee roasting was correct. Both common sense and scientific evidence demonstrate that roasted coffee is a substantially different product from green coffee. Green coffee cannot be consumed as a food or a beverage. If consumers were to purchase green coffee they would have to duplicate the roasting process as best they can. For this reason, virtually no green coffee is sold to consumers in this country.

Roasting does more than merely heat the green beans. Chemical changes occur, and these changes affect flavor, color and other characteristics which in turn affect the marketability of coffee.* The changes include increased acidity (including formation and volatilization of acetic acid and decarboxylation of acids), the presence of acidic carbonyl compounds in different intensities, changes in the concentration of volatile constituents of coffee (such as hydrogen sulfide, methyl formate, and acetyl propional), and changes in chlorogenic acid isomers during roasting. Roasting is also responsible for creating the aroma of coffee (an important feature of the product to consumers), as well as the distinctive color of roasted and brewed coffee.

3. Roasting coffee is a substantial and complex manufacturing process.** The roasting process involves careful

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* A bibliography containing a sample of scientific studies describing such changes is included at the end of these comments. NCA is prepared to provide copies of these articles upon request.

** NCA does not believe that the substantiality and complexity of the process is relevant to a finding of "substantial transformation." With respect to coffee, however, the substantial transformation of roasting is clearly the result of a "substantial and complex" manufacturing process.

control of temperature, roasting time, cooling, venting and air and gas circulation. Failure to control such factors may change the character of the roast. Skill is needed to assure that beans are roasted uniformly, to achieve an appropriate balance between temperature and roasting time in order to obtain the best flavor and aroma in the final beverage. In addition, skill is needed to avoid certain safety hazards in the operation of commercial coffee roasters.

A wide variety of equipment and patents for roasting coffee has been developed based on techniques using hot air, radiant heat, infra-red radiation, microwave heating, dielectric radiation, pressure, steam, inert gas atmospheres, solid and liquid heat transfer media, and quenching with air or water. New and improved techniques are continually being developed. Many coffee roasting patents have been issued in the past 15 years alone. As an example, recent patents describe basic techniques for using "state-of-the-art" fluid bed roasters and techniques for producing products based on the current world-wide trend toward fast roasted, low density, high yield finished products. These newer processes require specific roasters capable of precise heat transfer control to prevent burning of the outside of the bean and under or over processing.

Several studies have shown the effect of changes in the roasting process on the chemical components of coffee and thus on flavor, aroma and color. Roasters must consider such factors in regulating their roasting process to assure the quality of their product. It has been shown, for example, that modifications occur in certain raw coffee components when submitted to different degrees of roasting and that roasting temperatures affect the quantity of caffeine, acids and other components of roasted coffee. There have also been studies showing that variations in roasting conditions change the acidity of brewed coffee, which is an important attribute of coffee flavor. In particular, it may be important whether the roasting is done under atmospheric conditions or under pressure. All of these factors must be considered by a roaster in creating a marketable coffee product.

It can be seen from the foregoing that coffee roasting is a significant and complex process, which results in major changes in the roasted product and which requires careful and skillful control of many elements by roasters to achieve optimum results. The roasting process thus should continue to be regarded as a "substantial and complex manufacturing process which results in a substantial transformation" to produce a new article of commerce, as was determined in the Customs Service's 1983 ruling.

4. Burden and cost of compliance. If coffee which has been roasted, blended and ground by United States roast-

ers is required to be labeled under the country of origin regulations, the economic burden would be prohibitive. There are about 50 coffee exporting countries, and the United States imports coffee from virtually all of these countries. Roasters generally include coffee from many different countries in their blends. It would obviously be cumbersome, and not very informative to consumers, to include such a long list of countries on the label of every can or jar of coffee sold. What is important to consumers is the availability of a uniform quality and taste of a particular brand of coffee. The quality of coffee from a particular country varies continually as a function of location, growing and climatic conditions, seasonal variations, storage conditions, etc. In order to achieve the uniformity consumers expect, roasters must frequently vary their blend by using coffees from many origins in constantly varying proportions.

A major problem in country-of-origin labeling arises from this need for roasters to change their blends almost constantly -- sometimes as often as weekly or even daily -- in order to maintain product quality and cost requirements. Which coffees a roaster buys depends on many factors: country-to-country price differences, availability, shortages in a particular country's product, transportation schedules, the kinds of coffee needed for a company's blends (milds, arabica, robusta), the quality of a particular country's coffee, or the quality of a particular lot of coffee. The precise composition of a roaster's blend at any time reflects the coffees its buyers have purchased in the recent past, which in turn is a reflection of all of the factors listed above. Any one of these factors may result in the temporary addition of a particular country's coffee in a roaster's blends, or its temporary omission. Moreover, the relative amount of coffee from one country in a blend may vary as a result of these factors. Thus under the proposed regulations, every time a roaster changed its blend it would probably have to change its label, and as noted above, the composition of the blend may change as often as several times a week. In effect, therefore, roasters would have to prepare labels on a daily basis, and thus could not use pre-printed containers (such as lithographed cans) unless some very costly method such as paper labels were used to indicate countries of origin. With 50 possible countries as sources of coffee, the burden of preparing and applying the correct label to each batch of coffee would be simply staggering.

The only alternative to such day-by-day labeling would be for roasters to adopt a fixed blend and not vary their purchases as often to reflect market or quality change in coffee. This would have a number of obvious adverse effects.

Roasters would not be able to maintain a uniform quality for their branded products. In addition, roasters would not be able to take advantage of fluctuations in green coffee costs, and if committed to the coffee of a particular country might end up paying a premium for that coffee in the event of a shortage or excess demand (whereas now the roaster might seek out coffee of comparable quality from another country at a lower price). The clear effect of this would be to increase roasters' total costs, to the detriment of both roasters and consumers.

Thus, even if country of origin labeling for roasted coffee would otherwise be required, roasted coffee should be exempted from this requirement under 19 U.S.C. § 134.32(o), which exempts "[a]rticles which cannot be marked after importation except at an expense that would be economically prohibitive unless the importer, producer, seller, or shipper failed to mark the articles before importation to avoid meeting the requirements of the law. . . ." As we have already pointed out, green coffee imported into the United States in bulk is clearly labeled according to country of origin. Clearly, subsequent labeling of roasted coffee would be both very difficult and expensive.

5. International consequences. Any regulatory changes which might affect the purchasing patterns of United

States roasters could have significant effects on United States international relations. The coffee exporting countries include leading South American countries such as Brazil and Colombia, as well as many smaller producers in Central America, Africa and Asia. Many of the small producer nations depend heavily on revenues from coffee exports; many also are recipients of United States aid or have large debt obligations to United States lenders. These smaller countries may suffer if the proposed regulation leads roasters to use coffee from fewer countries, and to eliminate from their blends coffee from small producing countries whose products may not always be available.

Moreover, the United States has by treaty accepted certain obligations with respect to coffee imports through its membership in the International Coffee Agreement. The Agreement sets up a detailed mechanism for regulating exports by country of origin (including the labeling of green coffee and the use of export certificates). The proposed regulations may constitute a non-tariff barrier to imports, and might run counter to the purposes of the International Coffee Agreement. Before taking any regulatory acts which might affect United States coffee imports, the Customs Service should consider whether its actions might in any way affect any United States foreign commitments.

Conclusion

As the Customs Service recognized in its October 1983 ruling (#722980), "the process of roasting the coffee of several countries . . . is substantial transformation and the marking must reflect [the roasting country] as the country of production." The NCA submits that this ruling with respect to coffee was correct and should be followed today. Roasted coffee is clearly a new article of commerce which differs in name, character and use from green coffee. Further, the roasting process which produces this new article of commerce is a substantial and complex manufacturing process.

Consumers know that essentially all coffee is imported. Therefore there is no danger of consumer confusion or the passing off of foreign coffee as a United States product, which the Customs Service identified as a principal reason for the proposed rule changes. Requiring roasters to identify each growing country on their labels would be extremely difficult and costly, would promote no public policy or consumer benefit, would not affect domestic agricultural producers and would in fact work to the detriment of all parties.

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Cadillac Coffee Co.
BLENDERS • ROASTERS OF COFFEES
PHONE 313 369-9020 • 4740 EAST NEVADA AVENUE • DETROIT MICHIGAN 48234

April 4, 1985

Regulations Control Branch
Room 2426
1301 Constitution Ave., N.W.
Washington, D.C. 20229

30

Dear Sirs:

The National Coffee Association has recently informed us (we are a member of this Association) of possible changes in Country of Origin Marking regulations on all roasted, ground and packaged coffee.

Within any 12 month period, we may purchase from 20 to 25 different green coffee producing countries and during that same time use different amounts of coffee from some of these 20 or 25 producing countries to maintin a uniformity of blend flavor, body and acidity.

These changes may last as short a period of time as 3 days or as long as 30 days.

Because of these many changes required in our business it would be impossible for us to put the name of the country of origin on our packages.

We, therefore, respectfully request that you make no changes in the labeling requirements for roasted, ground and packaged coffee.

Sincerely,

CADILLAC COFFEE COMPANY

John R. Gehlert
President

JRG/ds

FRITO - LAY, INC.
FRITO LAY TOWER

CHARLES H. MURPHY
VICE PRESIDENT
GOVERNMENT &
CONSUMER AFFAIRS

March 29, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Ave., N.W.
Washington, DC 20229

Re: Federal Register Notice, Feb. 11, 1985
19 CFR Part 134
Country of Origin Marking of Imported
Nuts, Coffee Bean and Similar
Agricultural Products

Gentlemen:

Frito-Lay, a national manufacturer of snack foods, including nuts, wishes to offer the following comments relative to the subject of labeling packaged nuts as to country of origin.

We agree with Customs, in ruling #724550, dated June 4, 1984, and ruling #726412, dated September 25, 1984, that roasting of imported nuts does effect a substantial transformation of these goods into a new and different article of commerce.

In our case, cashews are the only nuts that we import. Depending on availability, price and type, we purchase cashews from India, Africa and China. Cashews, in their raw state, are not palatable to the consuming public. Only after adding peanut oil and salt in processing do they become a marketable food item.

To rule that "country of origin" must be a part of the package label would either restrict us to purchasing cashews from one country or force us to carry packaging inventories for all three countries.

Such a ruling would also require unnecessary record-keeping on the part of the processor and enforcement procedures on the part of the government to assure compliance.

EXCHANGE PARK · DALLAS, TEXAS 75235 · (214) 351-7597

Frito-Lay respectfully requests that Customs sustain its previous ruling that roasting operations do constitute a substantial transformation of raw nuts and that no country of origin marking is necessary.

Sincerely,

Charles H. Murphy
Vice President
Government & Consumer Affairs

CHM/cgd

TOM'S FOODS INC.

Tom's

GENERAL OFFICES
COLUMBUS, GEORGIA 31994
P.O. BOX 60
A/C 404 - 323-2721

April 04, 1985

Regulations Control Board
Room 2426
US Customs Service
1301 Constitution Ave., N.W.
Washington, D.C. 20229

Dear Sir:

15

Subject: Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agriculture Products

The customs proposal to label the Country of Origin for Nuts, Coffee Beans and Similar Agriculture Products is a proposal that restricts the choice and trade of Imported Nuts, Coffee Beans, and Similar Agriculture Products solely on country of origin. Any proposal should be flexible enough to allow alternate choices without label changes. This specific labeling will increase the cost of products that will be absorbed by the U.S. consumer. Any economic and quality decision should not be hindered by this unwarranted and unduly restrictive labeling requirements. Therefore, we request that 19 CFR 134 not be amended to include the country of origin.

Items of Concern:

A. Specific reference is made to Iranian pistachios. If this is the concern, why penalize other imports? Customs is in the best position to deny entry of Iranian pistachios based on a non-favored or embargoed trade status.

B. Nut roasters producing mixed nuts could be faced with frequent costly label changes to accommodate available nut suppliers.

C. An "and/or" statement could possibly be a viable labeling. This would give U.S. Consumers the best of prices and a choice to refuse purchase because a product may contain an item that they want to avoid.

Additionally, consumer benefit from the labeling will be negligible. In the interest of simplified labeling of the consumer package, TOM'S FOODS INC. is in disagreement with the proposal.

Sincerely,

Ronald W. Blaschke
Director of Quality Assurance

RWB/nt

CRESCENT foods

FINEST FOOD FLAVORS

April 5, 1985

Regulations Control Branch
Room 2426
United States Customs Service
1301 Constitution Avenue North West
Washington, D.C. 20229

Gentlemen:

Crescent Manufacturing Company is a processor of nuts from around the world. Crescent opposes the proposed changes in Section 304 of the Tariff Act of 1930 as amended (19 USC 1304) concerning country of origin marking of imported nuts.

First, the roasting process of nuts does result in a substantial change in the nuts. The nuts arrive at our plant in their raw form, a form which is unacceptable to most consumers. Before roasting, the nuts are inspected and cleaned to rid them of extraneous matter. After roasting, the nuts are salted and packed to produce an acceptable product for the consumer. To go from an unacceptable raw material to an acceptable finished product is a substantial transformation.

Second, presently we inventory 68 different nut packages. A breakdown of our suppliers show a possible 44 countries of origin for these 68 nut packages. If the proposed change goes into effect requiring country of origin on the package, our package inventory would increase to 2,992 different packages. The size of such an inventory would have a serious economic impact on our company.

The above figures do not take into account our mixed nut products which contain 5 or 6 nut items each. Take the 4 oz. bag of mixed nuts for example; Mixed nuts contain 6 different nut items with a total of 24 possible countries of origin. Given all the combinations, the total number of packages required in inventory would be 134596. As an alternative, if Crescent chose to put all the possible countries of origin in parenthesis after each nut item, we would have a small 4 oz. bag with 24 countries listed on the back of the package. The

CRESCENT MANUFACTURING COMPANY
P.O. BOX 3026 • SEATTLE, WA 98114
800 MAYNARD AVE. S. • SEATTLE, WA • (206) 623-7140
TWX 910-444-4034

consumer would not really have any better idea as to where the nuts actually originated.

Third, due to the unrest in many nut producing countries, it would be impossible to inventory any of the packages too far in advance resulting in a possible stock out situation at time of production.

The Custom's rulings should continue to stand and not be rescinded because roasting does constitute a substantial transformation of the product; the inventory, paperwork, and man hours required to keep packages containing country of origin correct would create a serious economic burden, and in many instances, the consumer would end up no better informed.

Regards,

Faye Mattson-Cotter

Faye Mattson-Cotter
Manager of Regulatory Affairs

FMC:tmc
CC: Ted Weaver, President

201-347-1420

American Instants Inc.

P.O. BOX 536
STANHOPE, N.J. 07874-0536

April 1, 1985

Regulations Control Branch
Room 2426
U. S. Customs Service
1301 Constitution Ave., N. W.
Washington, D. C. 20229

APR - 4 1985

Dear Sirs:

American Instants, Inc. wishes to go on record as opposing proposed changes in country of origin, marking regulations and the application of the proposed changes to coffee, i.e., 50 Fed. Reg. No. 28 (Feb. 11, 1985) and CFR-177.10(c) (2).

We see no useful benefit to consumers with this information since almost everyone associates coffee with foreign growers. On the other hand it will be very expensive to change all packaging materials, which have been developed over a period of years, to reflect country of origin.

I believe the lengthy paper produced by the National Coffee Association, the national trade organistion of the coffee industry, sent to you on March 26, 1985 contains sufficient facts, without my duplicating them here, to enable you to render a decision cancelling the proposed regulations.

Very truly yours,

Thomas J. Roche, Jr.
President

TJR:jp

Great Atlantic & Pacific Tea Company, Inc
Paragon Drive Montvale New Jersey 07645
201 930-4056

Ivan K. Szathmary, Ph.D.
Senior Vice President

March 29, 1985

APR - 3 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Gentlemen:

We respectfully petition that the current and longstanding ruling pertaining to Country of Origin marking of coffee beans not be rescinded and submit the following observations:

(a) We contend that the roasting process substantially transforms the green coffee bean. Coffee in raw form cannot be considered a consumer product. Only after roasting can it be brewed to a beverage.

(b) Supplies of coffee are not always available from the same source. Blend changes are an ongoing part of our business, as coffee from one origin is constantly being substituted for that of another like quality. The International Coffee Agreement, to which the U.S. Goverment is signatory, is another inhibiting factor, since it imposes a quota system on the member producing countries. The quota system causes limitations in specific source supplies.

(c) From an economic standpoint, coffee must be bought at the best possible advantage. The various qualities and price levels in the marketplace are constantly being evaluated and purchasing decisions are made accordingly.

(d) If the regulations were rescinded, a multiplicity of cans and labels would have to be stockpiled to accommdate a multitude of blend changes. This would add a substantial cost to the price of the product and not benefit the consumer.

(e) From a protectionist standpoint, there is no valid reason to rescind the current regulation, since coffee as a commercially grown product is not indigenous to the United States.

(f) Unblended coffees are usually labeled by country of origin. A blend listing a combination of coffees from approximately 40 countries of origin, challenges the imagination.

In conclusion, we submit that it would be prejudicial to our coffee business and an unwarranted financial burden to the consumer if the current regulations were to be rescinded. We submit that the negative effect on the coffee industry at large would far outweigh any benefit that might be derived from such a change.

Very truly yours,

I. K. Szathmary

IKS/amm

GREENWICH MILLS COMPANY ESTABLISHED 1912

IMPORTERS · COFFEE ROASTERS · TEA · COCOA · SPICES

[illegible] NEW JERSEY [illegible] TELEPHONES N. Y. 212 [illegible] 6263
N. J. 201 [illegible] 0200

March 22, 1985

Regulations Control Branch, Room 2426
Office of Regulations & Rulings
U. S. Customs Service
1301 Constitution Ave., N.W.
Washington, D.C. 20229

MAR 25 1985

Dear Sir:

These comments are submitted for your consideration regarding 19 CFR Part 134 Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products.

Greenwich Mills Company imports, roasts, and packs coffee for the institutional food service industry, and for private label grocery accounts. The company employs over 500 people and processes over 50,000,000 pounds of coffee beans per year.

Packaged coffee should not be considered as a product that requires country of origin marking. If the proposed change is enacted, the coffee industry will be adversely affected.

Coffee is a tropical fruit, not grown within the United States, with the exception of small quantities found in Hawaii and Puerto Rico. This fact alone should exclude coffee from consideration because there is no domestic coffee growing industry. The consumer need not concern himself with deciding whether to buy domestic coffee or foreign coffee since virtually all coffee is imported from abroad.

Customs is wrong in thinking there is no substantial transformation of the product during the manufacturing process. In fact, green coffee is chemically complex. It contains fats, oils, esters, acids and sugars that give coffee its' flavor. These compounds are released during the roasting process to give coffee the unique, wonderful flavor millions have come to enjoy. Each manufacturer has his own idea of how to roast coffee and grind coffee to suit his particular clientele.

Labelling each product with country of origin marking would be an impossible task. Generally, packaged coffee contains a variety of origins; each origin having its' own characteristics. Not all origins have coffee available year round, therefore, manufacturers are required to constantly blend origins, as they become available, to maintain a uniform taste. Constantly changing labels to reflect the contents of the package, would be prohibitively costly. Changes would have to be made weekly or even daily. The industry couldn't do it.

We urge Customs to reconsider their position on coffee based upon these facts. The proposed change is unnecessary because there is no threat to any domestic industry; and the consumers are already aware of that.

Sincerely,

GREENWICH MILLS COMPANY

Gary S. Fischer
Vice President

GSF:ca

ANDERSON PRETZELS
OLD DOMINION NUT PRODUCTS

OLD DOMINION FOODS, INC.
324 NEWPORT STREET, SUFFOLK, VA 23434
PHONE 804/539-7428

March 13, 1985

Regulation Control Branch
Room 2426, U.S. Custom Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Ref: 10 CFR Part 134

We respectivfully request the following points be considered prior to any rule changes being made on the country of origin marking of imported nuts.

Whenever a nut is roasted the chemical make-up of the oil in the nut is altered, therefore causing a substantial transformation to take place. To list the country of origin a nut product could be misleading to the consumer with them believing that the nuts had been roasted and seasoned in that country of origin.

If country of origin is required, the actual space on some labels could become so cluttered with country of origins, i.e. mixed nut labels, that it would be unreadable. It would also cause less proportional space for nutritional labeling and less emphasis on nutritional information.

Nut labeling by country of origin would be a "non tarrif trade barrier" to free trade. Specifing country of origin in the case of some nuts, such as cashews, which are grown in many different countries, would cause labels to be printed with only one country and this would prevent the import and use of cashews from other origins.

Cost is another reason to maintain the present rules. The proposed change could increase the costs of imported nuts, due to artificial trade barriers limiting source of supply. In addition the numerous labels that would be required for the private label industry would place a much higher, not needed cost to the consumers.

Based on the above we again request that no changes be made in previous custom rulings that nuts processed in the U.S. by roasting may subsequently be marked and marketed as products of the U.S.

Thomas B. Sherwood,
General Manager

TBS/iw

Beltran

Peter W. Clegg
Vice President
and General Manager
Nut Products Division

March 4, 1985

MAR 11 1985

4

Regulations and Control Branch
Room 2426
U. S. Customs Service
1301 Constitution Avenue N.W.
Washington, DC 20229

Dear Sir:

This letter is in response to the proposed change in country of origin marking for imported nuts, coffee beans and similar agricultural products. Your notice was contained in the Federal Register of Monday, February 11, 1985, Volume 50, No. 28, Page 5629.

We are in the business of roasting, salting, packaging and distributing a wide variety of nut products including pistachio nuts both from California and imported from various countries overseas (including Turkey and Iran). The proposed change would require country of origin marking for nut products under the rationale that the roasting process does not result in substantial transformation, contrary to present and past Customs rulings. Adopting this change, proposed by California pistachio interests, is not in the best interests of consumers or processors and would create several unnecessary problems.

Different processors roast nuts in many different ways and my firm, for example, competes on the claim that our superior roasting techniques create nut products, particularly roasted pistachios, which are superior in taste to those of other firms. Thus, we feel that our ability to "substantially transform" raw nuts into attractive consumer products is the essence of our business. It is clear that California producers are motivated not by a desire to protect consumers or to protect the entire nut processing industry, but by a desire to cripple their most substantial source of competition by trading on the currently strong anti-Iranian feeling held by most Americans. If they succeed in persuading you to adopt this proposed change, the already significant price premium commanded by California pistachios will increase further. For your information, at the present time raw California pistachios cost producers such as ourselves approximately $2.00 per pound, whereas imported pistachios cost us approximately $1.55 per pound. No quality difference justifies such a premium. We are able to process and package imported pistachios and offer them to consumers at prices which are substantially lower than for California pistachios. We also sell substantial quantities of California pistachios and when we do so, we label them as such. When imported pistachios are used, in no instance do our labels imply or attempt to imply that the source of the pistachios is California. Neither do they, any longer, draw attention to the fact that they come from Iran. Additionally, the issue is much broader and deeper than Iran and pistachios. We, and other nut

Beltran Corporation • One Acton Place • Acton, Massachusetts 01720 • (617) 264-4900

processors in this country, import and process a wide variety of nuts including cashews, filberts, almonds, Brazil nuts, etc. Many times, particularly in the case of mixed nuts, one can will contain nuts from several different countries (such as India, Brazil, Turkey, etc.). Cashews, for example, come mainly from Brazil, India, Mozambique or Tanzania. When cashews from each of these countries of the same grade are compared after processing, it is impossible to identify the country of origin by examining the nuts; therefore cashews from different countries could be mixed and present in the same can. How would such cans be labeled? Would we be required to segregate products from each country before packaging them?

These are just a few readily apparent difficulties that would be created if the proposed change is adopted. I hope that you will carefully consider the impact of such a change on our industry and, particularly, that you clearly understand the anti-competitive motivations of the California pistachio interests behind this proposed change.

Sincerely,

PWC/jgb

Peter W. Clegg

SUNRAY FOOD PRODUCTS CORPORATION
3441 KINGSBRIDGE AVENUE, NEW YORK, N. Y. 10463
KINGSBRIDGE 9-[illegible]

February 25, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue N.W.
Washington, D.C. 20229

FEB 27 1985

3

Gentlemen:

I would like to comment on the proposed change in country of orgin marking on NUTS - specifically PISTACHIO nuts. We have been roasters and processors for the trade for over 30 years. We process imported as well as domestic pistachio nuts, and can assure you that this is a highly complex operation if favorable results are to be achieved.

Processed pistachios from Turkey, Iran, Greece, and Afghanistan have been offered to the United States for many years without any success whatsoever. Without American know-how and technology, the industry would never have grown. The American market just doesn't accept the foreign processed product. In fact, many foreign countries demand that their orders be processed in the United States. This is due entirely to our different methods. Our basic process includes:

1. Separating, cleaning, and grading for special sizes
2. Coloring, if desired
3. Roasting and Salting
4. Packing for industrial, wholesale, and retail use in a great variety of forms and sizes.

There are many subtle processing differences in each of these catagories. Millions of dollars and many decades have been invested in the machinery and knowledge to produce a unique product. This has been accomplished in America by American labor and with American equipment.

Pistachio nuts selling for over $5.00 per pound have a raw nut value of under $1.50 per pound. There can be little doubt that any marking or designation other than PRODUCT OF U.S.A. would be misleading, inaccurate, and abolutely unfair to the American people who have transformed a bearly edible, raw tree nut into a rare gourmet delight.

Yours truly,

David O Brechner

David O. Brechner
Managing Director

DOB/sp

ZENOBIA Company

3441 KINGSBRIDGE AVENUE, BRONX, N.Y. 10463-4095

AMERICA'S OLDEST AND FOREMOST PROCESSORS
AND DISTRIBUTORS OF
Pistachio Nuts

TELEPHONE: (212) 796 7700
TELEX: 234197 ZENO UR

CABLE ADDRESS
"ZENOBIA" N. Y.
ALL CODES

February 19, 1985

FEB 25 1985

Regulations Control Branch, Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Gentlemen:

The following comments relate to the Federal Register Notice regarding the rescinding of rulings that nuts, coffee beans and similar agricultural products which are imported raw, then processed in the U.S. by roasting, may be marked and marketed as products of the U.S.

We are importers and processers of Pistachio Nuts. Processing includes cleaning, grading, roasting, salting, red coloring (in many cases), and packaging in consumer-sized packages. The final consumer product is substantially transformed by the addition of ingredients as well as American labor. The imported Raw Pistachio Nut represents only about 33 percent of the final consumer price. The balance represents the processing and distribution costs; values added in the U.S.

We believe that the substantial transformation of Pistachio Nuts, as well as the substantial value added by American labor is sufficient reason to retain the long-standing ruling that the product should be marked and marketed as product of the U.S. Any change would be confusing to the consumer, who is used to the present labeling, and would be misled into thinking that the product was manufactured in a foreign country if it was so marked.

In view of the above, we feel that the long-standing regulations should be continued without change.

Very truly yours,

ZENOBIA COMPANY

Ira S. Agress

IRA S. AGRESS

THE FOLGER COFFEE COMPANY
P O BOX [illegible]
CINCINNATI, OHIO [illegible]

April 9, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Re: Country of Origin Marking of Imported Nuts, Coffee Beans and Similar Agricultural Products

The Folger Coffee Company, a wholly-owned subsidiary of The Procter & Gamble Company, is opposed to the Customs Service's proposed change of practice regarding country of origin marking for imported nuts, coffee and similar agriculture products proposed in the notice published on February 11, 1985, in 50 Fed. Reg. No. 28, 5629.

The Folger Coffee Company is one of the country's leading coffee roasters and processors. Folger has four coffee plants located in New Orleans, Louisiana; Kansas City, Missouri; Sherman, Texas and South San Francisco, California and sells its brands of coffee, FOLGERS, FOLGERS CRYSTALS and HIGH POINT, in all 50 states.

Since there is almost no coffee grown within the United States, all the coffee sold by Folger is made from imported coffee. We import coffee from over 25 different countries and our total volume of coffee imported annually exceeds $500 million or the equivalent of 400 million pounds.

The predecessor of The Folger Coffee Company was founded in 1850, and has sold coffee continuously since that time. As far as we are able to determine, during that entire period of time, coffee sold by Folger has never been marked as to country of origin, but all such coffee sold by Folger contained imported coffee. Thus, the proposed change will result in a radical change in labeling practices with significant, far-reaching and deleterious effects upon Folger, the coffee industry in general, the consumer and international trade and relations. Conversely, there will be no benefits to anyone and there are no appreciable U.S. agricultural interests to be concerned.

Basis for Folger's Opposition

In brief, Folger believes the proposed change should not be implemented for the following reasons:[1]

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[1] Although our comments are addressed specifically to the roasting of coffee, it would seem that similar reasons and arguments would be applicable to the roasting of similar agricultural products. However, these comments are focused upon coffee.

— Roasting coffee results in "an article having a name, character" [and] "use differing from that of the imported article . . . ." 19 CFR §134.35.

> The roasting process changes imported green coffee, a product which has no use except as producers' goods to be processed into roasted coffee, a product that is usable by consumers. The processed product has a totally different character from the imported product and the names "green coffee" and "roasted coffee" are commonly used within the industry to distinguish between them.

— Although we do not believe it relevant, roasting coffee is a "substantial manufacturing or processing operation." 50 Fed. Reg. No. 43 8724 (to be codified at 19 CFR §12.130(b)).

> Once it is clear that processing in the U.S. has resulted in a change in name, character or use from the imported product, there is no basis to inquire into the substantiality of the process by which this change has been accomplished. However, in the case of coffee, the roasting process is substantial and complex and requires a high degree of skill, technology and capital.

-- Since there are no U.S. interests to protect, a change in marking requirements is unwarranted.

> Except for some extremely small quantities of coffee grown in Hawaii, coffee is simply not cultivated in the United States. Thus, contrary to the statement in the published notice, there are no "domestic agricultural producers" to be concerned which would warrant review of the previous rulings on coffee.

-- The cost to coffee producers of complying with the proposed marking requirement would be significant and would likely be passed on to consumers.

> Folger, as well as most other roasters, uses a blend of coffees from many countries which changes frequently due to the need to maintain the same, uniform taste, to take advantage of changing market conditions and to adjust to fluctuations in growing conditions, weather and other variables which affect the quality and availability of most agricultural commodities. To reflect these necessary changes would require an enormous inventory of labels, larger than normal inventories of green coffee and would necessitate frequent interruptions of a highly automated processing operation. All of these would result in significantly increased costs of production which would be likely passed on to consumers with no benefits. Conversely, if we ceased making adjustments to our green coffee bean blend, the quality of our product would suffer, the consumer would not receive the same flavor or taste which he/she expects and because of the need to buy from only those countries for which labels are on hand, costs would still rise as the roasters could not take advantage of better buys from countries for which labels are not readily available.

— The implementation of the proposed marking requirement could be harmful to some countries, (particularly those which export smaller quantities of coffee), many of which are intended to be beneficiaries of several programs actively supported by the U.S. government. Additionally, this requirement conflicts with aims of the International Coffee Agreement.

> **In order to minimize the inventory of labels required and to avoid unnecessary disruptions to the product process, roasters will likely avoid purchasing green coffee from countries which export relatively small amounts of green coffee or from which green coffee is not available on a year-round basis. These are often less-developed countries and several are intended to be beneficiaries of programs such as the Caribbean Basin Initiative. Additionally, the U.S. is a signatory to the International Coffee Agreement and imposition of the marking requirement may be inconsistent with the obligations of that treaty.**

Our more detailed comments on the above points follow.

Roasting Coffee Is A Substantial Transformation Because It Results In A Change in Name, Character and Use.

We believe that Customs ruling #722980 dated October 17, 1983, which held that roasting coffee was a substantial transformation, was correct under the law and regulations as they then existed and as they now exist and was subsequently reiterated in other rulings.[2] In fact, we are aware of no change in either the law or the regulations which would either require or permit a change in these rulings. The facts were and are that roasting results in a substantial transformation.

The applicable regulation, 19 CFR §134.35, provides an exemption from the marking requirement if the imported article is used in manufacture in the U.S. "which results in an article having a name, character *or* use differing from that of the imported article" (emphasis added). It is widely recognized that since these three criteria are used in the disjunctive, a product meeting only one of the three criteria meets the regulation. (*International Paint Co., Inc. v. U.S.*, CD 1059, aff'd. 35 CCPA 87 (1948)). In the case of roasted coffee, *all* three criteria are met.

> *Name*. "Green coffee" is the term used broadly in the trade to refer, generically, to all coffees imported in the raw state into the United States. Conversely, after roasting, the coffee is referred to as "roasted coffee." Of course, both green and roasted coffees are referred to by more specific names indicating the specific type of coffee, its

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[2] **#722360, dated June 6, 1984, ruled that the final roasting in Puerto Rico of foreign source partially roasted coffee beans was a substantial transformation. #725641, dated July 25, 1984, ruled that "Roasted in Austria" labeling was required on coffee roasted in that country. Austria grows no coffee.**

species and other information such as grade, but to those in the coffee industry these two names have distinct and separate meanings. Since green coffee is not sold to consumers, they are not familiar with the distinction, having no occasion to differentiate the two.

Character. Roasting coffee is more than just a simple cooking process. In the roasting process coffee is transformed from a green bean which does not possess any desirable flavor or aroma to a dark colored bean with a very complex and characteristic flavor and aroma. This transformation is brought about through changes in the amounts of various key components in the green coffee along with the production of new, important constituents that contribute to the roasted coffee aroma and flavor.

The changes in the composition of coffee which are caused by roasting are reductions in water, sugar, water-soluble proteins, chlorogenic acid, trigonelline, and tannin and increases in neochlorogenic, quinic, and caffeic acids (chlorogenic acid is a condensation product of quinic and caffeic acids). Essentially no change occurs in caffeine or total oil content. The non-volatile constituents present both before and after roasting which are recognized as contributing to coffee flavor are chlorogenic acid, organic acids, tannin, and caffeine. Their roles are contributions toward acidity and bitterness. It has also been ascertained that green coffee of pH 5.8-5.9 undergoes changes during roasting which cause the pH to drop to about 4.8 to 5.2 and then rise.

Non-volatile components of green coffee, such as carbohydrates, proteins, and amino acids, react to produce desirable flavor and aroma compounds. Maillard browning and Strecker degradation reactions have been shown to produce hundreds of potent flavor compounds.

Analyses of 15 of the important smaller molecular weight aroma materials found in roasted coffee show that their total level is increased about tenfold in the transformation from green to roasted coffee. These changes in the levels of both total volatile aroma materials and key individual substances play an important role in the development of roasted coffee flavor and aroma.

Use. Green coffee is not usable in that form without roasting. In fact, its only use is as a precursor to roasted coffee. We do not sell green coffee to consumers nor are we aware of any other sales of green coffee to consumers to any appreciable extent. Further, appliances or other equipment usable by ordinary consumers designed for the purpose of roasting coffee are not readily available.

The ruling on roasted coffee which is the subject of this proposal correctly sets forth the principle that should be continued:

> "Substantial transformation occurs when items are changed from producer goods — items that are neither use (sic) by, capable of

> use by the retail consumer -- into consumer goods — items that have value and use to the consumer." (Midwood Industries, Inc., v. United States, 64 Cust. Ct. 499.)

> After roasting, coffee is sometimes sold without further processing to the retail consumer, but prior to roasting it is simply not sold to the retail consumer as it has no value or use as such.

Thus, as has been shown above, it is clear that roasted coffee is different from green coffee not only in name, but in character and use as well. Thus, roasting meets all three of the criteria in 19 CFR Section 134.35 for substantial transformation, although it need meet only one.

Roasting Coffee is a Substantial Manufacturing or Processing Operation.

As mentioned above, roasting coffee is more than just a simple cooking process. The roasting step is the most complex step of the coffee manufacturing operation. The flavor of the roasted product is affected by the specific type of roaster involved, the air temperature, the air flow rate, the roasting time, the type of quench used, and the final color of the roast.

As partial evidence of this, equipment and patents for roasting coffee have been based on techniques using hot air, radiant heat, infra-red radiation, microwave heating, dielectric radiation, pressure, steam, inert gas atmospheres, solid and liquid heat transfer media, and quenching with air or water. New and improved techniques are continually being developed. Recent patents[3] by major U.S. coffee processors describe basic techniques for using "state-of-the-art" fluid bed roasters.

Further, roasting equipment requires a substantial investment to purchase and install. We estimate that this would require at least $3,000,000 for just one continuous roasting machine meeting only a small fraction of our needs.

Roasting coffee requires a high degree of skill and experience. The roaster operators within a coffee plant are typically the highest skilled production operators in the plant due to the complexity of the roasting operation and the skill required to judge a "good" roast from a "bad" roast.

As stated in Texas Instruments, Inc. v. United States, 681 F. 2d 778 (C.C.P.A. 1982):

> "The facts of record indicate that a number of employees were needed, and had to be technically trained in numerous skills to "convert materials into articles' in the manner we have described above, laying the groundwork for the acquisition of even higher skills and more self-sufficiency."

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[3] E.g., U.S. Patents #4,501,761; #4,349,573, #4,322,447, #4,169,164.

As was true in the case of Texas Instruments, the roaster operators in a Folger coffee plant undergo an extensive training program, and their abilities increase with further experience. In fact, it may be said that the formal training program, lasting from six months to one year, is merely the beginning of an operator's training.

The Proposed Marking Requirement is Unwarranted as Virtually No Coffee is Grown in the United States.

In the Federal Register notice of February 11, 1985, the Customs Service stated, "In view of the concern of the domestic agricultural producers, Customs has determined that a review of the above rulings is warranted." However, the concern referred to must obviously be that expressed solely by domestic growers of pistachio nuts. Moreover, since there are no commercially significant growers of coffee in the United States (there are minute quantities of coffee grown in Hawaii, but they are de minimis compared to the quantities grown outside the United States), it is highly unlikely that there is any such concern with respect to coffee.

We do not use any domestic coffees in the production of our brands of coffee. Further, we believe that none of the brands of coffee commonly found on grocery shelves uses anything but foreign source coffee. The consumer is well aware of the fact that coffee does not originate in the United States.

Thus, the concerns expressed in the Federal Register notice are inapplicable to coffee and any change in the rulings, as proposed, is unwarranted. As mentioned earlier, roasted coffee has not been commonly labeled as to country of origin and this long-standing practice should not be altered without some indication of a pressing need. There simply is no domestic agricultural interest to protect.

Customs' Proposal Would Lead to Significantly Higher Costs to Produce Coffee and Result in Higher Prices to Consumers.

Folger buys green coffee beans from over 25 countries and its largest brand, Vacuum Folgers, uses green coffee beans from almost all of them. The countries represented in this brand's blend on one day or in one roasting may not be the same that are in the blend on a subsequent day. The blend changes constantly from day to day for a number of reasons:

— Green coffee is traded as a highly volatile commodity whose price can change hourly. Consequently, the price of coffee from one country may represent a better buy or a better value versus an equivalent coffee from another country. It is sensible and efficient to make the best possible purchase and it is necessary to reach the decision to make that best purchase very quickly.

— Growing and harvesting seasons vary from country to country. At any point during the year not all countries providing coffee used in our blends have coffee available, and it is necessary to substitute.

— Even coffees from within one country and of the same general type can vary significantly in quality from week to week. This can be due to any number of factors including growing and weather conditions, as well as storage and harvesting conditions. Often it is necessary to shift the blend composition in order either to compensate for deficiencies in coffee from one country or to take advantage of more suitable coffee from another.

It is important to recognize that we believe the key factor in the mind of the consumer when making a coffee purchase decision is the consumer's expectation of receiving the same taste and aroma received in previous purchases of that brand. Much of our effort, and we believe the same to be true for our competitors, is devoted to delivering the same flavor in every package of coffee. For example, samples of our coffees are continuously compared to flavor standards to insure that the consumer always receives the same, uniform taste over time. For the reasons mentioned above, it is absolutely necessary to switch source countries on a frequent basis to maintain that flavor consistency. Otherwise, because of the variability of green coffee beans and fluctuating availabilities, it would be impossible to deliver a consistent product.

If Customs' proposal were implemented, labels would have to be available for all possible combinations of countries that could possibly be used. The labels used are commonly lithographed cans so it would be necessary to either keep many differently labeled cans on inventory or switch to some other expensive system such as paper labels to provide more flexibility. The inventory of cans and/or labels would increase geometrically and would represent a significant increase in costs. Other types of packaging would have similar problems. Additionally, the packaging of coffee is highly automated so stopping the line to change labels would impose additional inefficiencies and still higher costs.

Of course, there are some steps that could be taken in an attempt to reduce these extra costs but these steps all have their own costs and inefficiencies. It might be possible to increase inventories of green coffee beans so as to reduce the frequency of shutting down the production line. This would, of course, entail the cost of carrying a larger inventory and green coffee beans do tend to deteriorate with age. Another possibility would be to confine purchases of green coffee to fewer countries so as to minimize the need for a multiplicity of labels, but this could easily result in not being able to take advantage of purchase opportunities and would create problems in meeting a consistent flavor target.

In short, this proposed change of practice would inevitably increase the cost of production of coffee. Even though coffee is a highly competitive industry and a few cents per unit price difference can have a significant effect on volumes, it would seem clear that these cost increases will inevitably be passed on to the consumer. Again, absent any factual or legal reason to make the proposed changes in country of origin labeling, the proposal is unwarranted.

The Proposed Change in Labeling Requirements Could Have an Adverse Effect on International Trade and Foreign Relations.

As discussed above, one possible way for a coffee roaster to reduce the number of labels and label changes needed is to limit the number of countries from which it buys green coffee. Thus, it would seem quite likely that those countries which produce relatively less coffee will be disfavored and will not be able to sell their coffee as readily in the United States. Many of these countries are small, less well-developed and depend upon coffee exports for a large proportion of their gross national product. In fact, many of these countries are intended to be the beneficiaries of various U.S. government programs such as the Caribbean Basin Initiative. Implementation of Customs' proposal would be counterproductive to some of the objectives of this country's foreign aid programs.

It should also be noted that the United States is a member of the International Coffee Organization along with most of the producing nations. One of the objectives of this treaty is to promote the sale of coffee and any steps, such as this proposal, which increase the cost of coffee or disfavor any member country, run counter to the objectives of this treaty.

Conclusion

We urge Customs not to implement the proposed recision of the rulings with respect to coffee. Clearly, under any possible standard, the roasting of coffee is a substantial transformation as it results in a change in name, character and use and is accomplished by a substantial and complex manufacturing process requiring skill and technology. Implementation of the proposal is unwarranted as there are no domestic agricultural interests to protect. Further, it would raise the cost of processing coffee and ultimately would result in increased prices to consumers with no discernible benefit.

Additionally, Customs should consider the impact on this country's foreign relations and international trade as we believe this proposal would have serious adverse consequences in this area.

Respectfully submitted,

THE FOLGER COFFEE COMPANY

By______________________________

B. J. Hintz, Vice President

BEA3453E
0261T

THE FOLGER COFFEE COMPANY
P.O. Box 599
Cincinnati, Ohio 45201
April 12, 1985

Regulations Control Branch
Room 2426
U.S. Customs Service
1301 Constitution Ave. NW
Washington DC 20229

Re: Country of Origin Marking
50 Fed. Reg. 5629 (2/11/85)

Gentlemen:

After further consideration of the comments filed on the above docket on April 9, we wish to make an additional comment.

The ruling change is proposed to amplify the terms of a substantive regulation, 19 CFR 134.1. This substantive rule is not at issue in this proceeding, but it has force and effect under a statutory delegation of rulemaking authority, 19 USC 1304.

But the ruling change is itself a substantive rule because of its direct impact on a class of persons, the importers of coffee, who, our experience ndicates, together may incur additional costs of between $50,000,000 and in cess of $100,000,000. The economic impact of the rule is felt directly by ne firms which heretofore had relied on the prior status of the country of origin marking regulations. This change meets the criteria of substantial impact and direct consequences sufficient to make it a "rule" rather than an adjudicatory order for purposes of the Administrative Procedure Act. All substantive rules must be adopted in conformity with the APA, and all Executive Branch substantive rules must be in full compliance with Executive Orders 12,291 and 12,489. The former is invoked in this case because of the substantial impact of the new rule upon the industry affected, as well as the likelihood that the impact on the economy as a whole of the drastic change in labeling practices will be within the dollar threshold for consideration of economic impacts (Exec. Ord. 12,291, section 1(b)).

The rule meets the legal standards of a substantive rule because it has been published as an amplication of 19 USC 1304 and of a prior substantive rule, 19 CFR 134.1. It has direct impact on persons whose goods would be violative of section 1304 if they do not comply with the new rule. And the rule provides a defined set of required actions for the affected set of firms to meet on a prospective basis. Therefore Administrative Procedure Act rulemaking must be used, 5 USC 553(c), together with compliance with the economic analysis requirements of Executive Orders 12,291 and 12,489.

It would be a violation of the Administrative Procedure Act for the Service to use informal adjudication processes to make such a major cost imposition upon the coffee industry. Agencies which have used interpretive rules as the basis r filling interstices of a substantive rule or statute have been held in iolation of APA requirements, see e.g. Chrysler Corp. v Brown, 441 U.S. 281 (1979). In this instance, the APA has not been followed for this rule. There is a distinct enforcement disadvantage from insufficient opportunity to provide comments on the economic consequences of the rule. Similar insufficient consideration cases have generally led to court orders for closer compliance with the APA, see e.g. United States v Gavrilovic, 551 F.2d 1099 (8th Cir., 1977).

Further, we agree with the interpretations by the Office of Management and Budget Office of Information & Regulatory Affairs that labeling is a form of paperwork subject to the requirements of the Paperwork Reduction Act (PRA). Those interpretations of the PRA requirements should be followed by the Treasury, which has in the past agreed with the OIRA on a number of issues concerning regulations and paperwork. We believe that if a careful review of this rule is undertaken by the OIRA, pursuant to its Executive Order jurisdiction, the mandatory label addition will be found to be a Paperwork Reduction Act activity which is subject to prior review by the OIRA. Labels and other forms of information are routinely collected by federal inspectors, such as those of the Food and Drug Administration, for evaluation, and the Feb. 11 statement in the Federal Register will if adopted impose a significant additional labeling burden on the affected coffee firms, including Folger.

Therefore, in addition to our comments filed on April 9, we respectfully request that the additional rule which burdens the coffee industry be reissued as a proposed rule for review under the appropriate Executive Orders, and under the Paperwork Reduction Act. Thank you.

Sincerely,

James T. O'Reilly
Senior Counsel

3984r

[illegible]
WAYS AND MEANS
HOUSE ADMINISTRATION

324 [illegible]
[illegible], D.C. [illegible]
[illegible]

Congress of the United States
House of Representatives
Washington, D.C.

[illegible]
[illegible], #200
[illegible], California 93301
[illegible]

[illegible] W. [illegible], #115
[illegible], California 93534
[illegible]

1100 [illegible]
San Luis Obispo, California 93401
[illegible]

April 12, 1985

Regulations Control Branch
U.S. Customs Sevice
Room 2426
1301 Constitution Avenue, NW
Washington, D.C. 20229

To Whom It May Concern:

These comments are offered in response to the Federal Register notice of February 11, 1985, 50 Fed. Reg. 28, 5629, concerning country of origin labeling for nuts, coffee beans and similar agricultural products which are imported raw, and then processed in the U.S. by roasting. These comments are specifically directed to the need for accurate country of origin labeling in the trade of imported raw and subsequently roasted pistachio nuts.

In sum, country of origin labeling should be applied to imported pistachios to comply with the Congressional intent underlying section 304 of the Tariff Act of 1930, 19 U.S.C. §1304. Section 304 was enacted because Congress intended that U.S. consumers have information about products' origin so consumers could use that information in deciding whether to buy.

Because Customs previously, to obtain administrative consistency, held roasted pistachios are substantially transformed, imported nuts are being deceptively marketed as American-grown nuts. County of origin labeling would avert deceptive marketing of pistachios. The following analysis supports this conclusion.

1) *The statute requires country of origin labeling to protect consumers*. Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), requires that imported articles of foreign origin, or their containers, be legibly and conspicuously marked to show the English name of the country of origin of articles. The requirement is imposed because Congress felt the ultimate purchaser should have this information as it may influence the consumer's decision to buy the product.[1] Roasted pistachios are not marked for country of origin today.

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[1] The House Report states the marking statute's purpose was to "[protect] both our...people from the imposition of inferior goods and the revenue from possible loss through undervaluation." H.R. Rep. No. 1466, 51st Cong., 1st Sess. 6-7 (1890). See also *United States v. Friedlaender*, 27 C.C.P.A. 297, 302, C.A.D. 104 (1940) ("As we see it, Congress intended that the ultimate purchaser should be able to know by an inspection of the marking on imported goods the country of which the goods is [sic] the product. The evident purpose of the statute is to mark goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods are produced, by able to buy or refuse to buy them, if such marking will influence his will."); *Globemaster, Inc.* v. *United States*, 340 F. Supp. 974, 976, 68 Cust. Ct. 77, C.D. 4340 (1972) ("There can be no doubt that the pertinent legislation reflects the Congressional intent that the public be apprised of the country of origin of merchandise.") (citing *Friedlaender*).

2) *Roasted pistachios are incorrectly exempted from country of origin requirements today.* Country of origin markings are generally not required where the product undergoes a "substantial transformation" due to further work or processing as a result of which a new and different article of commerce with a different name, character or use is created. *See e.g.*, *Anheuser-Busch Brewing Assoc.* v. *United States*, 207 U.S. 556 (1908); *United States* v. *Gibson Thompson Co., Inc.*, 27 C.C.P.A. 267 (1941). The processes employed may themselves be sufficient to meet the requirement.

Customs ruled on September 25, 1984 (726412) that roasting pistachios results in "substantial transformation" because roasting is a substantial operation. Customs reached this conclusion by analogizing roasted pistachios to roasted coffee beans. *Id.* Having previously ruled on June 6, 1983 (070395) that coffee beans are substantially transformed by the roasting required to make them usable in beverages, Customs also treated the roasting *process* as substantial when applied to pistachios. *Op. cit.*[2]

This ruling should be reconsidered. Assuming *arguendo* that other comments will show roasting renders little substantial technical change in pistachios, Customs should also recognize that pistachios' end use, identity and character do not depend on roasting. They are eaten raw or roasted.

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[2] Customs did, however, did invite the submission of additional technical information on the impact of roasting.

Further, the recently-announced textiles country of origin rules, Customs Regulations Amendments Relating to Textiles and Textile Products, 50 Fed. Reg. 43, 8710 (1985) (to be codified at 19 C.F.R. 6, 12, 18, 19, 141, 143, 144 and 146), indicate roasting is at best a minor operation. The textiles rules of origin treat minor finishing operations and dyeing as insubstantial. *Id.*, at 8711. Roasting is no more complex nor sophisticated a process than those described. In fact, roasting in part completes the dehydration of pistachio nuts, a process that is largely conducted in the country of origin. Dehydration cuts the water content of nuts from 50% to 45% shortly after harvest to 6% to 4% prior to importation. Roasting in the U.S. further reduces water content to 3% to 2%.

3) *Failure to force country of origin labeling for pistachios allows unchecked deceptive pistachio marketing*. Appendix A shows the most blatant form of consumer deception. The "Pride of California" pistachios are neither grown nor packed in California. They are in fact Iranian nuts rebagged in Michigan. This is precisely the kind of marketing section 304 is intended to prevent.

No less deceptive are the advertisements found in Appendix B. Appearing recently in the *New York Times*, *Smithsonian* and *Food and Wine*, these advertisements imply the subject nuts are

California products by listing a California address for the marketing agent. Equally disturbing is the "Sun-Ranch" branding, which piggybacks extensive marketing efforts and promotions on the part of such well known brands as Sunkist, Sun-Diamond, Sun Giant and Sun-Maid, all of which promote California-grown and processed products. Both the agent's address and label imply the nuts are U.S. products when they are in fact imported, the situation country of origin labeling is intended to forestall.

4) *Country of origin labeling will not impose unnecessary barriers to trade or manufacturing problems when imposed on pistachios*. The U.S. has historically imported most of its pistachios from Iran, the world's major supplier. Other pistachio exporting countries include the Federal Republic of Germany, the United Arab Emirates, Syria, Turkey, Afghanistan, Greece and Italy, none of which regularly supplies the U.S. with substantial quantities of nuts. See appendix C. Identifying the origin of such nuts can be easily done on a label, even if packaged nuts are in fact commingled. Indeed, previous Customs rulings have required labeling in certain instances even where commingling was a regular marketing practice. See, *e.g.*, Customs Ruling 723668 (1983) (Customs allowed distributors to list the major sources of their stock); Customs Ruling 722985 (Oct. 14, 1983) (Customs required repackaged honey to list major sources of honey imports).

5) *Country of origin labeling need not be applied to roasted*

coffee if pistachio labeling is required. Unlike pistachios, coffee beans must be roasted before their flavor is developed and their use in beverages and foods is possible. Again, pistachios are eaten raw or roasted. As well, many roasted coffees must be blended in order to achieve particular brands' product uniformity. Coffee blending is a complex process, requiring thorough analysis, sophisticated machinery and careful monitoring to ensure correct blends and tastes are achieved. But see generally Customs Ruling 722985 (Customs determined that blending of cleansed imported honey to achieve uniform color and taste was not substantial transformation, noting that the ruling request did not include a detailed description of the processing methods involved). In this regard, the roasting process as applied to coffee does produce a substantially different product from the raw bean, and should result in no application of origin labeling.

CONCLUSION

Country of origin labeling must be applied to pistachios. The processes involved in roasting imported nuts and the nuts themselves are not substantially transformed from the raw article. Unless Customs applies country of origin labeling to pistachios, American consumers will continue to receive inaccurate information about the products they purchase, contrary to Congressional intent in passing section 304 of the Tariff Act of 1930.

I respectfully request that these comments be included in the record.

Best regards,

William M. Thomas

WILLIAM M. THOMAS
Member of Congress

WMT/rsw

Accessories by Pearl, Inc.,
New York, NY, February 14, 1985.

Hon. William Green,
House of Representatives, Longworth House Office Building,
Washington, DC.

My Dear Mr. Green: We are a manufacturer of ladies fashion belts and some years back, our firm qualified for Trade Adjustment Assistance. It can be said with little doubt, that without the help given to us our business would not have survived.

The assistance given us enable us to develop a more highly styled belt line which was less apt to be affected by imports . . . result, our business more than doubled.

Small companies like ourselves need help in adjusting to the competition from imports. We trust you will concur and vote to recommend refunding of the Trade Adjustment Assistance Program.

We would appreciate your seeing that our views are entered into the record.

Sincerely,

Pearl Dengenshein.

Adorable Coat Co., Inc.,
New York, NY, February 20, 1985.

Mr. Joseph K. Dowley, Esq.,
Chief Counsel, House Ways and Means Committee,
Subcommittee on Trade, Washington, DC.

Dear Mr. Dowley: I wish to express my regrets at not having the opportunity to appear before your committee to present my successful experience with the Trade Adjustment Assistance program.

For the record, I would appreciate my comments and the attached article, which appeared in the January 1985 issue of Apparel Industry magazine, entered in the record and made available to all interested parties.

While the article speaks for itself, there are certain points which I believe merit special mention:

Trade Adjustment Assistance was instrumental in restoring our firm to again being a healthy viable operation. Sales rose and employment has grown to 135 workers in-house and an additional 240 at sub-contractors.

Trade Adjustment Assistance forced us to become more analytical with respect to how we ran our business. Previously we had tended to rely more on intuition and our actions were not always based on substantive information.

Trade Adjustment Assistance demonstrated that Government and Business can work together to preserve jobs which otherwise would have been lost to off-shore competition.

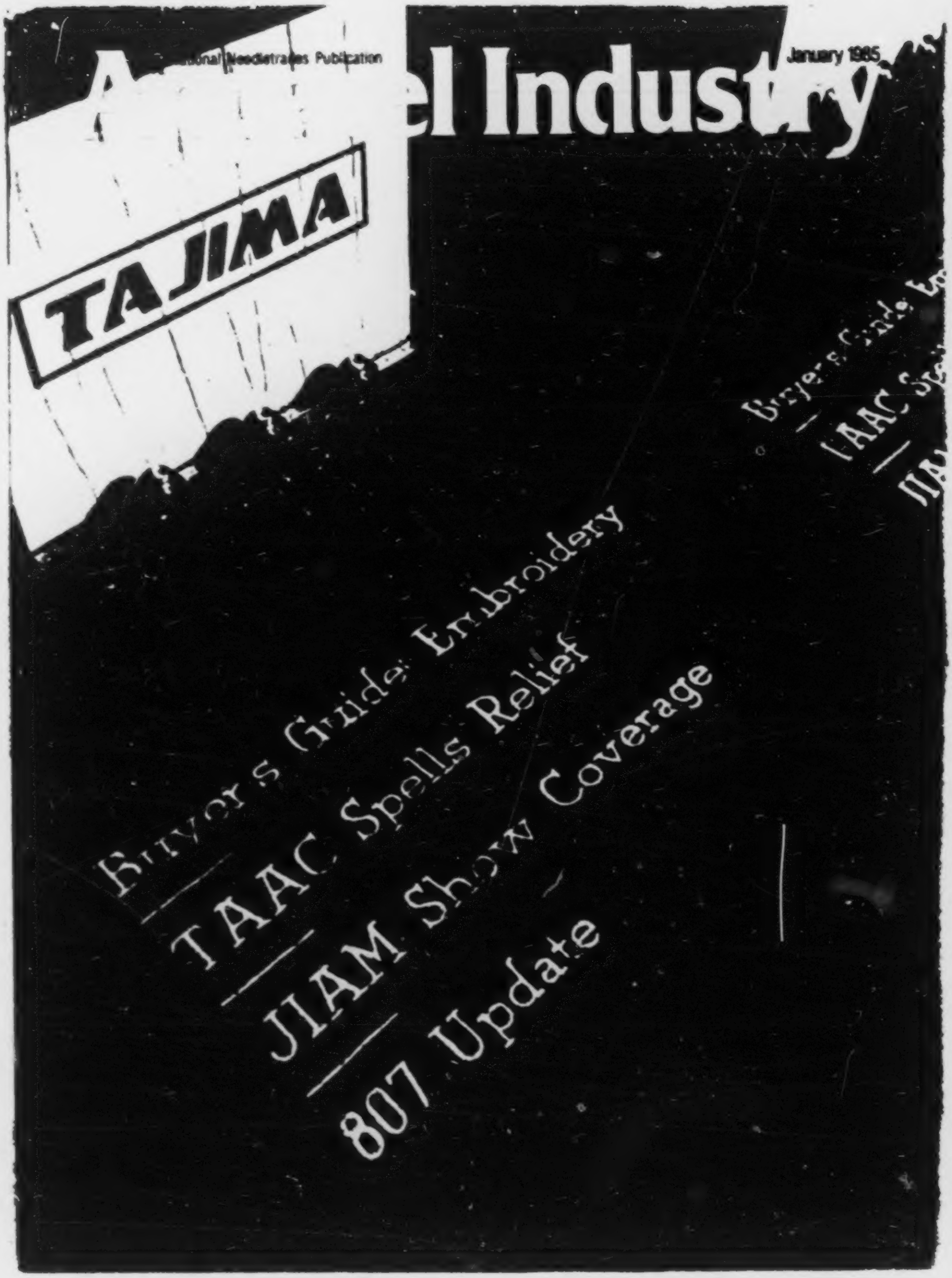
In closing, we strongly urge your support for continuation of the Trade Adjustment Assistance program. It worked for us and can help others whose business continues to be adversely affected by imports.

We appreciate the opportunity to share our views with the committee.

Very truly yours,

Alan Foster, *President.*

Attachment.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TAAC Spells Relief
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PROFILE

TAAC spells relief

The Adorable Coat Co. lost its shirt in leather coats, but with TAAC assistance and a bright idea, the firm has discovered a fortune in fake fur

by Susan Purdy

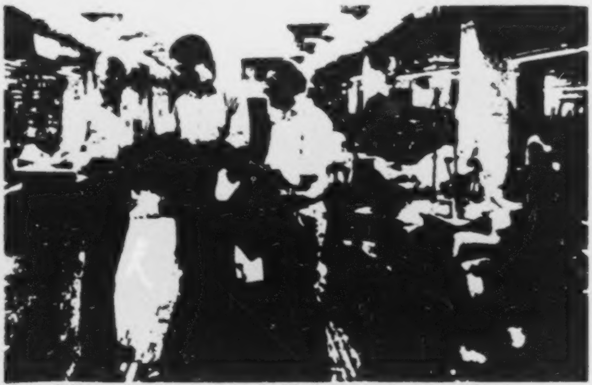
The Adorable Coat Co., based in Manhattan, N.Y., expects to do over $20 million in business in 1985. But it wasn't always so prosperous. According to owner and president Allan Foster, there was a time when they were severely hurt by imports.

"It was 1976 and we were heavily into the split cowhide business, making coats and doing very well until the market just dropped out of sight. The goods were coming in from Uruguay and Argentina and selling at a lower price than it cost us to manufacture."

Adorable was fighting a policy called Reintegro that reimbursed and encouraged manufacturers from South American countries to export their goods to the United States. These countries wanted and needed U.S. dollars, and through Reintegro they were able to give out very cheap or interest free loans or tax credits to those manufacturers who exported their goods to the United States.

"These manufacturers were able to sell a garment here for less than it cost them to manufacture it in their own country, and it destroyed a large segment of the leather business in the States. We had been operating very nicely in the market without the external pressure. Our prices were moderate, but we couldn't compete with Reintegro and wound up having to sell our inventory for less than it cost us to buy it."

Basically driven out of the leather business, Adorable Coats went from $6 million a year to $3.5 million and its employment plummeted from 100 people to 30. Foster, hoping to keep some of his sewers and cutters, searched for an idea to keep his plant operating. When he discovered that the best fake fur fabric was made in the United States and was not threatened by imports, he decided to gear his business toward producing fake fur coats.



From left, production manager Al Malkin, president Alan Foster and vice president Donald Eats.

But, faced with a large financial loss and the restructuring of his entire business, Foster knew he needed help. Through the mayor's office in New York City, he found a federally funded program, The Trade Adjustment Assistance Center (TAAC), set up to help companies like his that were being impacted by imports.

TAAC began in New York City in 1975, the brain child of Director Paul Radow. Radow had read an article about the Trade Act of 1974 authorizing the U.S. Department of Commerce to assist trade-impacted companies, and he quickly realized the potential for New York City manufacturers. Under his directorship, Metro New York TAAC worked out so well it was the model for 12 other TAAC offices throughout the United States and Puerto Rico. Although federally funded, TAAC is not a government agency; it works under a contract from the Commerce Department. Dealing with the "four M's" of business — marketing, managing, manufacturing and money — the program provides financial and technical assistance to import-impacted firms.

Radow has said, "We see TAAC as the American solution to foreign competition and we are ready to help affected firms and industries." Authorized to make loans of up to $1 million to an eligible firm, TAAC also can guarantee loans of up to $3 million made by a bank or other lending institution as well as pay 75% of the cost for outside technical assistance.

With the help of TAAC representatives, and at no cost to him, Foster filed a confidential petition with the International Trade Association (ITA) that included financial information, statements, three years income tax returns and employment records for 12 quarters. By doing so, he established his company's decline in production and employment and also demonstrated that imports were the key reason for Adorable's difficulties.

TAAC also took a look at the business in general and how it was being run. The petition was then reviewed (which can take up to 60 days) and Adorable Coat Co., Inc., was certified as eligible. TAAC's next step, called a viablity assessment, was to assess the firm's prospects and make a proposal for formal assistance. The viability assessment is a little deeper than the petition and involves members of the TAAC staff, engineers and marketing people, who talk with management and try to determine certain areas of weakness in the business. This assessment generally takes a month or two and is basically a diagnosis. What were Adorable's problems? What were the proposed solutions? How much would they cost? And which experts could solve the problem?

"At first we were intimidated to open our books to TAAC," Foster confided. "Even though they're not a government agency per se, they are funded by the government, and I had this in-born, gut feeling not to work with them. But I knew, on a rational level, I had to overcome that fear because we needed them. I was surprised to find the people from TAAC were very regular and seemed to know what was happening and how to handle themselves. They were not the stereotypical Washington types.

"With their help, we determined we needed a more efficient plant. We were spread out on five floors in our old building and it was affecting our productivity. Through TAAC, we applied for and received a $700,000 loan, part of which we used to help move to our present location."

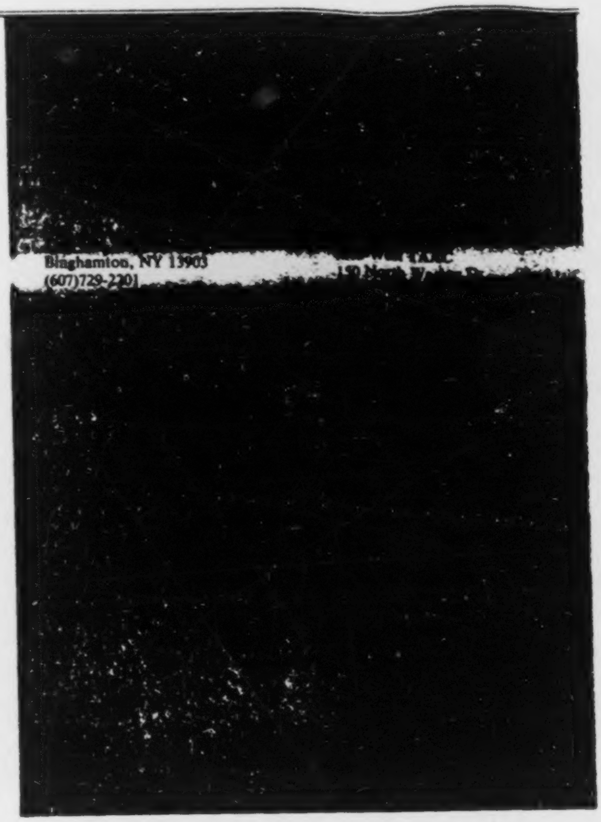
TAAC then went out for bid to three technical consulting firms who were well-versed in the apparel industry. Foster chose Barnett and Engels. They did a thorough appraisal of the plant, with TAAC paying 75% of the cost. Barnett and Engles suggested changes to help make the new plant more efficient, surveyed retailers as to the size of the fake fur industry and its growth potential, and provided services that Foster could never have done on his own.

"TAAC opened my thinking to the use of consultants and it was worth every penny of my 25% of the cost. Barnett and Engles were with us for six months . . . They helped with marketing as well as engineering, and I think many of our customers were impressed by the fact that a little garment manufacturer had hired a consulting firm. They didn't know all the implications and Barnett and Engels never told them. One of the most important things we learned from TAAC was the idea that we could avail ourselves of that kind of help."

In 1981, TAAC introduced Foster to the New York Port Authority, which had selected 150 producers of various products to study the possibility of export trade and to help on world imports. This study was funded for a year and then became the World Trade Institute (WTI). The WTI surveyed the Adorable plant to see if it was viable to export these products and helped bring in foreign orders.

When the new Export Trading Company Act was passed in October of 1982, Sears was the first to take advantage of it, opening the World Trading Co. Adorable attempted to export some of its fake furs to Japan through the Sears organization, but found it too big to relate to a small manufacturer. Foster also attempted to export to Eastern Block countries, and shipped goods to Austria for distribution. "They asked us for goods, so we sent samples, but they came back with ridiculous prices. If a fake fur coat was $50, they wanted to buy it for $30."

Always looking for opportunities to export his product, Foster says his new facility gives him ample room to grow.



Binghamton, NY 13903
(607)729-2201

The plant is his pride and joy, and he is in the process of designing a new line which will increase his dollar volume but not necessarily his overhead. Located on Tenth Avenue in New York City, the manufacturing plant is spacious (65,000 square feet), well-equipped and air conditioned. The 135 employees work on new machinery situated between large aisles and under excellent lighting conditions that Foster installed using $150,000 from the TAAC loan.

Adorable went through a tremendous machinery transition when it went into the fake fur business, putting the entire leather factory in moth balls. Foster said they considered selling the machines, but the market was extremely poor at the time and they would have realized only 10 cents on a dollar.

"We also held on to the leather factory hoping the tide would turn, and it now looks like it might. Our government has pressured the South American governments to stop the Reintegro program and they did stop for a while but then found another way to assist the manufacturers to export here. But the industry seems to be slowly redeveloping, and since we still have our equipment, there is a possibility we may get back into it some day."

During the regearing process, Foster used part of the TAAC loan to buy new Bonus machines (used by furriers), and Adorable now makes its fake furs in the same manner as a real fur coat.

"These new machines gave us an edge over the competition. Other manufacturers sew their coats the same way you would sew a wool coat, which is not really as good for fake fur. There's a subtle difference in the drape and the seams are much larger on a standard sewing machine. The standard machine takes a 3/8" seam and it makes a lot of bulk, which detracts from the beauty of the garment. The Bonus machine overlocks and seals the edges, which is important to our garment since it's bulky to begin with and we have to make it as thin or slimming as possible. Also, because fake fur is a long-haired fabric, and fibers can be pulled into the seam, our sewers, using the Bonus machine, can push the hairs out of the way with their thumbs the same way furriers do when they work on real fur."

When the Jordache Company heard about Adorable's quality, they licensed them to produce outerwear. But while all their fake furs and woolens are manufactured in this country, not all of Jordache's line is manufactured domestically. Foster is hoping he can manufacture Jordache's denim jackets, but is faced with the problem of the cost of CVS (Cheap Value Synthetics) and the fact that labor costs here are comparable to a finished garment's cost from overseas.

Quality is checked carefully.

Adorable uses over 400,000 yards of goods a year and Foster, vice president Donald Eatz and Adorable's designer Laraine Foster have developed exclusive fabrics with Glen Oit Mills in North Carolina and Montery Mills in Wisconsin.

"Having the Jordache line is a lot more than just putting a label on a coat and selling it for more money. We felt it shouldn't be the same as our regular line — it should be updated, a little younger. So we've developed some exclusive materials just for them. Glen Oit is now owned by an Israeli company and they've brought in a lot of European technicians who are really good. I took a trip to Israel last year to visit their main mill and picked up some of the latest innovations that Glen Oit is now making for our Jordache line. This line is the leading edge of our fashion image and we like to stay on top of it."

The Jordache coat differs in price from the regular Adorable line, and Foster quoted hypothetical figures to explain the difference. Fake fox fabric might run $11 a yard for the Jordache coat, whereas the Adorable garment will use a different type of fox fabric that might only cost $7 to $8 a yard. He said the Jordache fox will be denser, silkier; the Adorable coat will be acceptable but not as luxurious. There is also a difference in the linings of the two coats, with the Jordache lining costing him approximately 50 cents more.

Touring the plant, Vice President Donald Eatz was equally enthusiastic about the new facility. Eatz had worked for Sears as a merchandising and sales manager before coming to Adorable. Asked about TAAC's influence, Eatz said, "TAAC helped us find this building and lay out the factory. We needed a lot of space because each piece represents 18 to 20 yards of fabric and they saw that we got it. We now have five freight elevators and a holding area for incoming goods. They also helped us set up one of the most important sections of our plant — Quality Control. We get the smallest amount of returns of all major manufacturers. That keeps our product out there to be sold, keeps the customers happy, insures repeat business and cuts down on our shipping charges."

There is a stigma attached to the name "fake fur" and the industry has been wrestling for years with various ideas trying to come up with a new name. "Fake fur," Foster feels, now seems to be associated with older people. Grandma wore the old fake seal coat with the mink collar and many people still regard fake fur as being old fashioned and out of date.

"We're trying to popularize this garment," Foster said. "And what we're doing that many of our competitors haven't attempted yet is advertising in fashion magazines."

Foster has allocated money for advertising, believing he has to spend money to do business. "The bottom line is we make a very good product. I've been in this business for 25 years, and I grew up in it. My father was a furrier and I know that if we can have any influence in making the market bigger and letting people know that fake fur exists, it would be good for us. I would like to get together with other fake fur manufacturers and come up with new ideas to promote our product."

A modern company with an up-to-date facility, Adorable is aware that the fake fur business is only about 7% to 12% of the outerwear market and can only get bigger. "If we could get another percentage point," Foster said, "you're talking about a big, big increase. With the cooperation of other fake fur manufacturers and the mills in educating the public that this product is 100% American made, we could really expand this industry.

"Thanks to the help of TAAC, I'm in a position to really help promote it. As I see us grow, I look back on the lean years and I'm thankful that an organization such as TAAC existed when I needed it; I would encourage other apparel manufacturers who are being impacted by imports to take advantage of the TAAC program." ☐

ADORABLE COAT CO., INC.,
New York, NY, February 19, 1985.

Hon. THEODORE WEISS,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN WEISS: As a past recipient of trade adjustment assistance, I can attest to the value of this program in helping a manufacturer adjust to the pressures of increased foreign competition.

In order to enable us to prepare an adequate adjustment plan, we were required to, and did, conduct an extensive analysis of our operations. Both short and long term strategies were developed. We secured appropriate technical assistance to help us evaluate our manufacturing capabilities. On the basis of this study, management made a decision to re-locate from its existing multi-level factory to a newly designed, more efficient single-level plant. Financial assistance allowed us to implement a manufacturing and marketing strategy whereby we expanded our client base and upgraded our product line which now carries the Jordache designer label.

The implementation of our plan enabled us to generate added sales and increase our direct employment to 135 workers and an additional 220 to 240 at our sub-contractors. We are also continuing our efforts to export our products to Europe and Japan, further enlarging our market.

We urge your support for continuance of the trade adjustment assistance program as a means of safe-guarding and creating employment opportunities in this country.

Please enter the above comments in the Congressional Record.

Very truly yours,

ALAN FOSTER, *President.*

STATEMENT OF THE AIR TRANSPORT ASSOCIATION OF AMERICA

The Air Transport Association of America, which represents most of the scheduled airlines of the United States wishes to offer several observations for the Subcommittee's consideration with respect to the FY 1986 authorization for the U.S. Customs Service.

Before turning to those specifics, however, we wish to register two more general comments regarding current Customs operations.

First, the airlines commend the U.S. Customs Service for implementing the dual passenger channel inspection system, commonly referred to as the red/green door procedure, at a number of U.S. gateway airports last year. The airlines now ask that this tried and proven procedure be extended to all other U.S. gateway airports.

Second, the airlines continue in their concern over the requirement to reimburse the Customs Service for services performed outside of regular tours of duty during weekdays, including Saturdays, and between 5:00 p.m. and 9:00 a.m. on Sundays and holidays. This practice compels airlines to pay Customs employees over $10 million each year to perform duties and functions which are entirely the responsibility of the government itself. We believe holding private parties responsible for the performance of purely governmental functions is wrong to begin with. But when the government is conducting its business in the interest of the general public, not in the interest of just a few private parties, such reimbursable practices are indefensible. The airlines urge that this matter be addressed through statutory revisions to the Customs overtime laws.

In a related hearing, the Air Transport Association testified before the Washington State Congressional delegation in Seattle, Washington. This informal hearing was held on February 15, 1985, to investigate the current and future operating procedures of the Customs Service. For the most part, the hearing focused on problems as they relate to Customs at the Seattle-Tacoma International airport. However, the problems experienced and those discussed at the hearing are ones shared on a national level. The remainder of this statement focuses on three areas of airline interest and proposes several ideas to resolve existing problems.

I. INFORMAL ENTRY PRECLEARANCE

In the previous Congress, legislation containing an informal entry provision was enacted, in large part due to the efforts of this subcommittee. The provision permits an increase in the informal entry limit for most commodities to $1,250 up from $250, although the limit will be held for the time being to $1,000 by administrative ruling.

So that U.S. Customs inspectors at preclearance locations in Canada, Bermuda and the Bahamas may retain and otherwise enhance their cargo processing skills, as well as to facilitate preclearance of low value shipments, the airlines urge implementation of a procedure at these locations which will permit preclearance of all duty-free informal merchandise. No monies would be involved under this approach and, therefore problems of foreign currency transactions abroad would not arise. With the support of the subcommittee, we urge a test of this concept at a selected preclearance location as soon as possible.

II. CUSTOMS CARGO COMPUTERIZATION

Computer processing of air cargo inventory and associated data necessary for Customs entry is under intensive study at New York and Miami, where automated systems for import and export processing are being developed. The Miami Airport Authority has announced plans for a Miami International Cargo System, while the New York Airport Authority has developed functional requirements for its Fast Flow System. We anticipate other U.S. gateway airports will develop their own systems in the not too distnt future.

The airlines are concerned that the multiple approaches to automaton at various gateways will lead to conflicts, duplication of efforts, and added costs. Variations among airport systems will generate problems for the users and the Customs Service. Unlike most other countries, the United States has many gateway airports, to and between which airlines transport imported and in-bond merchandise. Thus, the computer system at each gateway must be compatible with all others as well as with any national air cargo computer system which may be developed by the U.S. Customs Service.

There is a need, accordingly, for a common discipline among these systems and the airlines therefore request the formulation of guidelines by Customs which address standards for communications interconnections among the several port computer systems. We ask that these guidelines cover the design parameters for a large scale Customs computer based information and tele-processing system for the balance of this decade. These guidelines are in order to assure a uniform national Customs automated air cargo system, a system which deals adequately with the interaction of local port authorities, forwarders, brokers, shippers and airlines in the processing of exports as well as imports.

Perhaps the subcommittee could request the General Accounting Office to undertake a study of this important matter by detailing the costs involved, enforcement and facilitation criteria, interfacing needs with the air cargo community and inter-airport computer compatibility considerations previously noted.

In examining Customs needs and requirements for air cargo computerization during the rest of this decade, the General Accounting Office could also examine air cargo computerized systems operations in other countries, for example, in England, France and Japan. Knowledge of how these and other countries were able to resolve some of the problems now facing the U.S. Customs Service would be of help in the formulation of any guidelines. Finally, attention could also be given to the possibility in the future of inter-country Customs computer interfacing systems.

III. U.S.-CANADA CUSTOMS ASSOCIATION

In order to provide inspection efficiencies and eventually reduce the number of Customs inspectors along the U.S.-Canadian border, the airlines recommend implementation of a Customs and Immigration association for transborder travel. In view of the similarity of United States and Canadian Customs, Immigration, Agriculture and Public Health missions, problems, needs and requirements, such an association appears ripe for consideration by this subcommittee.

Under such a plan, for example, visitors admitted to one country would be admissable, in most cases, to the other country and could otherwise freely travel across the common border without further immigration inspection. This plan would allow goods accompanying travelers crossing the U.S.-Canada border to be, within reason, duty exempt. Such a Customs association concept could be considered first in terms of U.S. and Canadian citizens, with eventual applicati0n to overseas visitors.

Companion implementation of a U.S.-Canada Customs and Immigration association for trans-border travel would eliminate the need for Customs and Immigration inspectors along the common border and at airports for trans-border air travel.

In conclusion, we are concerned by Customs' intention to eliminate 206 inspector positions which are currently unfilled. Rather than a cut, 206 inspector positions should be added in the FY 1986 budget to address continuing passenger and cargo processing delays at our gateway airports. In any event, Customs will need to streamline its inspectional operations further and otherwise improve the efficiency of their management systems. The measures which we have outlined, namely, informal entry preclearance, Customs cargo computerization guidelines and a joint U.S.-

Canada Customs and Immigration association will streamline and facilitate passenger and cargo inspection processing and will reduce cost to the Government.

Allomatic Industries, Inc.,
Woodside, NY, February 21, 1985.

Hon. Thomas Manton,
House of Representatives, Washington, DC.

Dear Congressman Manton: Allomatic Industries is a manufacturer of automotive component parts. We have been adversely affected by imports. With the help of Metro New York Trade Adjustment Assistance Center we carefully reviewed all aspects of our operations and developed business plan designed to keep us competitive in the world markets.

The best aspect of Trade Adjustment Assistance was the TAAC's assistance in bringing on expert consultants to scrutinize our product line for profitability. As a result, we expect cost savings to exceed $1,000,000 per year. Cost sharing with TAAC allowed us to receive this technical assistance with very little financial risk on our part.

OUr business continues to recover nicely. Others can gain from this program just as we have. Please support Trade Adustment Assistance. I would like my comments to go in the Congressional Record.

Cordially,

Benno Bordiga, *Chairman, CEO.*

The American Legion,
Washington, DC, February 25, 1985.

Hon. Dan Rostenkowski,
Chairman, House Ways and Means Committee,
Longworth Office Building, Washington, DC.

Dear Chairman: The American Legion would like to thank you for the opportunity to express its views relative to the FY 86 Budget for the U.S. Customs Service. As you know, The American Legion has, for many years, been actively engaged in educating our nation's youth concerning the dangers of drug and alcohol addiction. The Legion feels now, as it did in 1919, that in this nation's youth lies our hopes for the future. Indeed, Mr. Chairman, more than any other national resource, our children are our future.

Because of this, we find it distressing that cuts are being proposed that would reduce the size of the U.S. Customs Service, the very service that has the primary responsibility for drug interdiction. For the same reasons, we are distressed by Administration proposals that seek a reduction of 861 Customs personnel through the merging of field offices. The reasons given for these reductions and mergers are that they would help cut the Federal deficit. We do not, however, feel that this is the case. To the contrary, the fact that in 1981 more than a quarter of a million people were released from drug treatment facilities with an average cost per patient of more than $2,800 is ample proof, in our estimation, that drug enforcement efforts should be stepped up, not down. In fact, during FY 82 more than $533 million was spent on support for 2,780 drug treatment facilities.

Yet, even as the War on Drugs has escalated, the level of drug smuggling has intensified. For example, in 1981 the U.S. Customs Service made 170 heroin seizures totaling 234.7 pounds. During the same year, Customs agents made 1,372 cocaine seizures totaling 3,741 pounds. But, in 1984 Customs agents made 396 heroin seizures which totaled 664.3 pounds. Please consider for a moment that this is more than twice the number of seizures made in 1981 and nearly three times the seized weight. The statistics for cocaine interdiction are even more alarming. In 1981 agents of the U.S. Customs Service made 1,372 cocaine seizures totaling 3,741.1 pounds. Just three years later the number of seizures had climed to 1,625 while the cocaine poundage had mushroomed to a mind numbing 27,525.8 pounds. According to Custom Service personnel, the reason for the increase in heroin and cocaine is the commercial size shipments that are being smuggled into the country. Sadly, the Custom Service has estimated that it has been able to stop less than 10 percent of illegal drugs entering the United States.

Mr. Chairman, given the level of illegal drug activity and the cost of this activity in real dollars, and in human suffering, it does not seem prudent to contemplate a reduction in personnel for the U.S. Customs Service. In fact, given the Custom Service's success rate in interdicting drugs and the knowledge that the Service is responsible for generating $12.1 billion a year, in tariffs on inspected foreign imports, we would suggest that a substantial increase in personnel and operational funding is in order.

Mr. Chairman, as always the Legion appreciates your attention to the views of The American Legion and we ask that this letter be made a part of the February 21 hearing on the FY 86 Budget for the Customs Service.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

STATEMENT OF IRVING J. MILLS, EXECUTIVE DIRECTOR, AMERICAN RESTAURANT CHINA COUNCIL, INC.

INTRODUCTION

This statement is submitted on behalf of the American Restaurant China Council, Inc. (ARCC) to address the authorization of appropriations for the U.S. Customs Service for Fiscal Year 1986. The ARCC is a nonprofit organization founded in 1957 to represent the common interests of the U.S. commercial chinaware industry. Its purpose are to meet and discuss the various problems confronting the U.S. manufacturers of commercial chinaware, to promote high standards of business, and to encourage research in the manufacture and use of commercial chinaware.

ARCC is deeply concerned about the budget cuts proposed for Customs for Fiscal Year 1986 and the planned extensive cutbacks in Import Specialists, whose expertise is critical to effective enforcement. Even before these proposed cuts, Customs resources have been seriously inadequate due to budget cuts, position eliminations, and by-pass and other measures instituted during the last several years. The austerity measures have been especially detrimental to ARCC. Because of limited resources, Customs has given little or no priority to import shipments that are low in value, such as commercial chinaware imports. Yet, as explained below, the involvement of Import Specialists is necessary to ensure that commercial chinaware imports are classified and valued properly. It is especially important that proper duties are collected on imports of this product because the U.S. commercial chinaware industry is particularly vulnerable to low-priced imports from countries with low wage rates. Further budget cuts for the Customs Service will only serve to exacerbate this intolerable situation.

BACKGROUND

The U.S. market for commercial chinaware—sometimes called hotel, restaurant or institutional china—is approximately ten million dozens annually. In the past few years, imports have increased dramatically and now account for more than 23 percent of the U.S. market. The recent growth in imports has been primarily of extremely low-priced products from the Far East where wage rates are extremely low. Many of these imports have been copies of the design, shape, and pattern of U.S. manufacturers' product. Thus, these imports have caused considerable erosion of the U.S. industry's market share.

These imports are covered in the Trade Agreement Act of 1979 under two TSUS numbers—#533.20 and #533.52—which effectively encompass all ceramic tableware designated for the hotel, restaurant and institutional market, including stoneware, earthenware and bone china. Historically, and continuing until today, imports in these two categories have been subjected to a much higher rate of duty than that imposed upon ceramic tableware for household use.

ARCC has been extremely concerned about efforts of importers in recent years to report commercial chinaware as household tableware in order to take advantage of the lower rate of duty. To prevent such evasion, it is necessary for the Import Specialist to be involved actively in checking the imported goods. It is often difficult to distinguish between household and commercial ware imports based upon appearance, unless the ware carries a crest for the hotel or hotel chain. Only specialists who have been trained to distinguish slight physical differences between the two types of ware and to recognize the names of the importers of each type can prevent this abusive situation.

To assist the Customs Service in dealing with this problem, ARCC has, since 1979, made a concerted effort to visit the principal ports of entry of chinaware and to acquaint Imports Specialists with the features of commercial and household chinaware and other methods of distinguishing between the two types of merchandise.

The Import Specialists have been very cooperative, but lack of resources prevent them from taking action to ensure adequate enforcement.

NEED FOR INCREASED APPROPRIATIONS

Recent actions by the Customs Service to economize and eliminate aspects of the Commercial Services Section of Customs have severely reduced the effectiveness of Import Specialists to monitor imports and collect the tariffs imposed by Congress. The most far-reaching and damaging changes from the perspective of ARCC and other U.S. industries is the by-pass system recently adopted by the Customs Service. Unless a shipment exceeds a particular threshold value—as reported by the importer—it is not subject to inspection or post-audit verification. Rather, the Customs Service simply relies upon the importers to comply with our laws and regulations governing customs activities.

In addition, the Customs service reportedly plans to remove Import Specialists from all ports but New York, Chicago, New Orleans and Los Angeles. If implemented, this reduction in Commercial Services would assist importers of chinaware in avoiding proper classification. Many imports, particularly from the Far East, are directed to relatively small East Coast ports, such as Charleston and Savannah, which are generally understaffed and overloaded. With the total elimination of Import Specialists from these ports, imports would be able to misclassify their merchandise without any fear of detection.

Unfortunately, these and other austerity measures are sending the wrong signals to both Import Specialists and importers. These policies have the effect of discouraging Import Specialists from performing the very valuable functions they have traditonally provided. And, importers are aware that they can misclassify and undervalue their merchandise with impunity.

With the current austerity measures in place and with other reductions contemplated, there is potential for significant evasion of proper duties by importers of commercial chinaware. In addition to classifying merchandise improperly to avoid paying higher duties, as discussed above, importers are able to evade inspection simply by under-valuing their shipments. These shipments probably are not inspected under the current system, either because they actually fall below the threshold or because the importers have misreported their value in order to make them appear to fall below the threshold.

Obviously, the potential for fraud extends to imports of many other products as well. Further, with the removal of Import Specialists from all but a few ports and the severe reduction in inspection operations, the Customs Service may not be able to perform field checks to verify the occurrence of fraud, even if a specific complaint is made. As a result, U.S. industries and the U.S. Treasury will suffer.

CONCLUSION

The ARCC urges the Subcommittee to consider these concerns in determining the resources necessary for the Customs Service to enforce the country's trade and tariff laws. The United States needs a well-trained and adequately staffed Customs Service to ensure compliance with these laws. A reduction in appropriations would further impair the already strained resources of the Customs Service. An increase in appropriations is required to permit the Customs Service to monitor imports properly, prevent fraud, and protect the U.S. Treasury.

ARC KNITWEAR MILLS, INC.,
Brooklyn, NY, February 14, 1985.

Hon. STEPHEN J. SOLARZ,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SOLARZ: As the President of a trade impacted manufacturing firm employing mostly unskilled minorities, I urge you to continue the Trade Adjustment Assistance program. The program has helped us identify our problems and solutions to our problems. With the help of trade adjustment assistance, we have begun to adjust. The continuation of the program is essential to our adjusting completely and stabilizing employment of our approximately 100 workers

Please enter this into the Congressional Record.

Very truly yours,

HILTON M. WIENER, *President.*

ROBERT BESTIÉN
One East 33rd Street,
New York, NY, February 15, 1985.

Hon. WILLIAM GREEN,
House of Representatives, Washington, DC.

MY DEAR MR. GREEN: Our company is most appreciative for the help it received through the Trade Adjustment Assistance Program, and would welcome our comments being entered into the record.

The financial assistance which we received enabled our company to survive at a time when it as facing difficult times. As a producer of ladies handbags, we were encountering heavy pressure from the imports. Thanks to the programs help, we've been able to cope with an make necessary adjustments.

We urge your support for the refunding of this most needed program.

Sincerely,

ROBERT BLAU,
Secretary/Treasurer.

CHAMBER OF COMMERCE,
UNITED STATES OF AMERICA,
Washington, DC, February 22, 1985.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the U.S. Chamber, the world's largest federation of companies, local and state chambers of commerce and trade and professional associations, I respectfully urge you to support the President's FY '86 budget proposal allowing the expiration of the Trade Adjustment Assistance (TAA) program.

The U.S. chamber supports federal assistance for permanently displaced workers but recommends that TAA be allowed to expire. There is already a comprehensive and more equitable alternative to TAA: the national system of extended unemployment insurance, coupled with the special assistance for all dislocated workers provided under Title III of the 1982 Job Training Partnership Act.

Experience with TAA demonstrates that it not only duplicates existing programs but also is counterproductive because it actually encourages workers to delay adjustment to permanent job changes—and, in the process, adds to the federal deficit.

Our modern unemployment compensation system, in conjunction with the Job Training Partnership Act, provides help for those who need it more equitably, and with less waste, than TAA does. Authorization for TAA unemployment benefits, therefore, should be allowed to expire

Respectfully request that this statement be included in the February 21, 1985 hearing record.

Sincerely,

ALBERT D. BOURLAND,
Vice President, Congressional Relations.

STATEMENT OF IRVING M. WOLBROM, PRESIDENT, CHROMEX INDUSTRIES, BROOKLYN, NY

I. INTRODUCTION

My name is Irving Wolbrom. I'm President of Chromex Industries, located in Brooklyn, New York. Thank you for this opportunity to express my support for continuation of the Trade Adjustment Assistance program. My firm has been involved with this program, thru the Metro New York Trade Adjustment Assistance Center (TAAC), for over one year. During this period, we've received substantial technical assistance. This assistance has been extremely helpful in improving the efficiency of our manufacturing operations, and supporting our continued efforts to diversify our product line and become less vulnerable to the adverse affects of import

II. BACKGROUNDS

My firm was founded in 1964 as a manufacturer of inks for writing instruments. Subsequent years saw the firm expand its operations to the manufacture of writing instruments and molded porous plastic components. Sales last year were approximately $2.5 million and employment averaged about 50.

Over the past few years, imports have had a major adverse impact on U.S. writing instrument manufacturers. The year 1983 saw imports of writing instruments rise 25%. It was the first time the industry experienced an unfavorable balance of trade. I am very acquainted with this trend, not only as President of a company manufacturing writing instruments, but also in my position as President of the National Writing Instrument Manufacturers Association. My firm's loss of business and subsequent reduction in employees during 1983 qualified us for participation in the Trade Admustment Assistance program.

III. INVOLVEMENT

First, TAAC staff worked closely with us to establish our eligibility for the Trade Adjustment Assistance program. We then entered into a contract to have TAAC specialists analyze our operations, and help us develop a viable strategy to adjust to the adverse affects of foreign competition. This process confirmed the viability of our intention to emphasize development of our line of molded porous plastic products (trade name Interflo). Our strategy, as spelled out in our adjustment Plan, included an extensive technical assistance program to foster and support that development.

Over the past few years, Chromex Industries has developed a significant body of proprietary "high technology" in the field of porous polymers. Originally, we used this technology in the manufacture of nibs for writing instruments. However, with an ever increasing import penetration in the writing instrument market, we saw the need to expand our technology, diversify our product line, and move into areas less vulnerable to inexpensive imports. Interflo components posses several qualities which make them excellent candidates for a wide variety of commercial applications including gas and liquid filtration, pneumatic silencers, fragrance control and release, chromatography, moisture release and ink transfer just to name a few.

With the assistance of TAAC, we were able last year to engage the services of an outside industrial engineering consultant who performed a facilities planning study, developed labor standards and refined our costing procedures. This work had an immediate and positive impact on the efficiency of our manufacturing operations.

We're currently reviewing consultant proposals for a major project to investigate our porous plastic operations and develop new methods and concepts for molding our products. This project will result in greater efficiencies and ensure our ability to continue to compete successfully in an area which, at least for the present, has not faced any foreign competition.

Other TAAC projects scheduled for implementation include design of specialized production equipment, market research for Interflo new product development alternatives, and review of our accounting procedures and financial controls for possible changes.

IV. IMPORTANCE OF TRADE ADJUSTMENT ASSISTANCE

Without the assistance of TAAC specialists, we would not have been able to develop and articulate a comprehensive Adjustment Plan. The program's cost sharing feature afforded us the opportunity to bring in expert outsiders to give us an objective appraisal of our operations and business strategies.

We believe that our participation in the Trade Adjustment Assistance program has been and will continue to be an important factor in the improved viability and growth of Chromex Industries. This growth is critical in maintaining current employment levels and providing new job opportunities. Over the past few months, our business has enjoyed good sales gains and the prospects are excellent for the balance of 1985. We look forward to our continued involvement with TAAC to help support and sustain this growth.

The government's investment in our firm will have the direct and immediate effect to help resist foreign encroachment in our "high tech" market niche. We expect that continued assistance will strengthen our competitive position. Our ability to compete well against possible future overseas competition is dependent upon successful implementation of our business strategy. Without the resources available to us through the Trade Adjustment Assistance program, it is most unlikely that we'll be able to secure the necessary outside technical aid to ensure that successful implementation. The program is a most appropriate avenue for our government to support and encourage the development of high technology.

In conclusion, I strongly urge you to support continuation of the Trade Adjustment Assistance program. The program works for American business.

I thank you for the opportunity to express my views on this most important matter.

CIRCLE JEWELRY PRODUCTS, INC.,
New York, NY, February 14, 1985.

Hon. THEODORE WEISS,
House of Representatives, Rayburn House Office Building, Washington, DC.

MY DEAR MR. WEISS: I would strongly like to impress upon you the need for technical and financial assistance for firms who have been hurt by imports. Such assistance has helped and will continue to help firms fight the onslaught of imports.

My firm was recently certified as import-impacted and has received technical assistance in the development of a business plan which is necessary to help us remain viable. We are also about to receive engineering assistance which should make our plant 20% more efficient. We have employees whose jobs depend upon Trade Adjustment Assistance.

Please help us to restore financial and technical assistance funding for a full Trade Adjustment Assistance Program. It is essential! Please enter these comments in the Congressional Record.

Sincerely,

MICHAEL GARTNER, *President.*

CUSTOMS AND INTERNATIONAL TRADE BAR ASSOCIATION,
New York, NY, February 25, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GIBBONS: The Customs and International Trade Bar Association appreciates the opportunity to present its comments on the proposed budget of the United States Customs Service. Our Association consists of attorneys who regularly practice before the United States Court of International Trade, the Court of Appeals for the Federal Circuit, and, administratively, before the United States Customs Service in Washington, D.C. and the several Customs ports, districts, and regions throughout the United States. We have a vital interest in the fair and efficient administration of the Customs laws. It has been our experience that the majority of Customs Service representatives, whom we regularly encounter, make every effort to administer and enforce the Customs laws in a fair and responsible manner. However, such efforts have been sorely tested by recent cutbacks in staff.

The Customs Service is "a rarity amongst government agencies"—an income producing, rather than spending, agency. As one of the only revenue raising agencies in the United States, it seems to make little economic sense to, in any wise, impair the efficient functioning of this agency by cutting back staff or personnel essential for the efficient performance of its mission, which includes the ascertainment and collection of customs duties payable on commercial importation of merchandise into the territory of the United States. In the performance of its missions, Customs' Service personnel also directly administer the laws and regulations of other government agencies. For example, customs officers are on the front lines in administering and enforcing marking requirements, quotas, and other import restrictions established by the Department of Commerce as well as regulations and standards established by the Department of Transportation, Environmental Protection Agency, Food & Drug Administration, and diverse other federal agencies.

While we have no detailed information with respect to the proposed budget, we understand that it calls for substantial cuts in personnel in several areas. We are concerned about any further cutbacks and, in view of recent personnel reductions and changes within the Service, we ask that the Committee look very closely at any budget which is premised on further personnel reduction, whether direct or through attrition.

Through the years, the Customs Service has been known for having experienced, able personnel at Headquarters and in the field. Experts in classification, appraisement, marking, entry procedures, drawback, and enforcement have moved up through the ranks and have provided service to the public, including domestic producers, importers, and their representatives. We see that expertise declining, in quantity and quality, due in large part to cutbacks in personnel and attempts to eliminate or consolidate certain essential functions. Those cutbacks have had several adverse effects. Valuable personnel have left the Service and not been replaced, while those who remain have experienced an increase in workload and a decline in morale. This has been reflected by a very noticeable decline in service and qualitative productivity, some of which are described in these comments.

The Tariff Schedules of the United States (TSUS) are the basis for a complex system of tariff classifications and duty rates. Each customs import specialist has the responsibility for classifying specific categories of merchandise, or product lines within their respective expertise. The import specialists must know how the product involved, is produced, sold, and used, as well as how the legal headnotes and particular tariff provisions apply to that merchandise. Familiarity with administrative rulings and court decisions affecting the merchandise within that line is vital to the import specialist's functioning in an informed, intelligent, and efficient manner. Recent cutbacks have led to consolidation of merchandise lines so that, for example, an import specialist who may have spent years learning about tobacco, now has to classify food products as well. Thus, a greater number of products are now being handled by an import specialist with experience in one line who lacks the product expertise which was previously enjoyed by another specialist. A question that formerly could have been promptly and surely answered takes considerably more time because it is being handled by an office with less expertise, operating under an increased workload. When an import specialist lacks time or sufficient support staff, doubts are often resolved in favor of the government with the explanation that the decision may be protested (administratively challenged) and, if unsuccessful, ultimately challenged in court. At first blush this more arbitrary approach may seem to be more time effective. However, the administrative review procedure is even more time consuming and, in the long run, additional Customs personnel will be required at both the district and headquarter's levels in order to process the increased number of administrative reviews. As the number and caliber of classification experts decline, more decisions will have to be based on administrative convenience with a consequent increase in administrative and judicial review. The number of actions brought to the Court of International Trade will increase, with the concomitant need for increased government personnel in the Courts, the Department of Justice, and the legal arm of the Customs Service. Litigation is costly to the government as well as to the importer/businessman and domestic industry. There is a reasonable likelihood that it can be avoided, or at least minimized, by retaining and, indeed, restoring the requisite number of teams of experienced import specialists to handle questions at the procedural level, before they mature into controversies.

Drawback claims are generally handled at the regional level. Claimants have the opportunity for discussions, with the regional drawback liquidator, for the purpose of expediting the claim process and reducing the necessity for subsequent time and labor consuming changes or amendments. If the liquidation function is removed from the regions and is centralized in one location, as has been proposed, the opportunity for such time saving discussions, prior to filing, will be lost or greatly diminished and the processing of applications will become more cumbersome, requiring greater subsequent review and more frequent rejection. Centralization into one of the seven existing regions will either necessitate the training of new inexperienced personnel to supplement the drawback staff in the selected (central) region or greatly increase the work load of those in the selected region. Delays in paying drawbacks are almost certain, and are likely to discourage some companies from taking advantage of drawback. Since it is one of the few export incentives offered by Government, nothing should be done to make it more burdensome to file for drawback.

Domestic industries are increasing efforts to obtain relief through the imposition of quotas, and other remedies available under the import relief laws. Administration of quotas takes additional time and manpower. At a time when relief through quotas is increasing, proper staffing is needed at the local and Headquarters level to implement quota programs and to see that other services provided by Customs at the operational level are not curtailed or ignored. It is again emphasized that these services are all directly connected with the collection, rather than expenditure, of revenues by the United States.

Difficulties in coping with the increasing workload are being experienced at Customs Headquarters as well as in field offices. For example, in August 1984, significant changes in the regulations which affect the importation of textiles were published in the Federal Register as "interim regulations." Comments were requested from the public. The comment period ended on November 3, 1984 but, nearly four months later, nothing further has been forthcoming from Headquarters. Headquarters reports that there may be no final action on the comments for several more months. In the meantime, textiles are imported under "interim regulations" and textile trade operates under a cloud of uncertainty.

Resources are continually being transferred to the enforcement area of the Customs Service. While we have no objection to taking appropriate measures to enforce the Customs laws, we suggest that it is just as important to have adequate qualified import specialists and other experts who can timely provide guidance and assistance to the importing public regarding the proper methods of marking, entering, or describing imported merchandise so as to forestall conduct that will otherwise subject them to subsequent time consuming and less productive enforcement procedures. If commercial fraud and negligence are going to be vigorously prosecuted and penalized, there should be adequate experienced, talented, and willing Customs personnel available in order to properly assist and guide the importer who seeks to avoid punitive actions by obtaining non-enforcement oriented administrative assistance. Customs should be encouraging and assisting the prudent importer in his efforts to properly comply with Customs' requirements thereby avoiding the more time consuming, less productive, enforcement procedures. Similarly, the existence of a trained and knowledgeable corps of customs import specialists is essential in order to guide Customs, itself, in pursuing any intelligent, productive program of enforcing the customs laws and regulations for the many different types of products imported into the United States. Without such a cadre of import specialists, Customs' enforcement will be non productive, less effective, and more susceptible of avoidance.

In summary, in considering the proposed budget of the Customs Service, we request that the needs of the importing public to comply with the Customs laws and regulations be given serious consideration. If the Service lacks the proper number of qualified personnel, at every level, companies involved in exporting from and importing into the United States will be seriously and adversely affected, and international trade will be hindered. We therefore urge that, in evaluating the Customs Service budget, the Subcommittee consider whether the budget will provide adequate funding for the Customs personnel and programs needed to efficiently and effectively administer the multitude of Customs laws and regulations. Any budget which will not meet this objective should be rejected.

Respectfully submitted.

RICHARD J. KAPLAN, *President.*

DAME BELT CO., INC.,
New York, N.Y., February 20, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN GIBBONS: It has been brought to my attention that an evaluation of my firm's success may be used to destroy the Trade Adjustment Assistance Program. Please allow me to state unequivocally, for the record, that without the aid of Metro N.Y. TAAC, my firm could not have grown and prospered to the extent it did. We were facing some bleak times and with the help of Metro N.Y. TAAC, we overcame that difficult period and grew to an astonishing extent, even surpassing our most optimistic projections!

It was a team effort. Dame's management, TAAC's assistance, and the program itself combined to create a spectacular record. As a result, sales grew from $3 million to over $13 million with a corresponding increase in employment to 300 people.

For anyone to attempt to maintain that our success reflects badly upon TAAC or that somehow we are in competition with TAAC, is to engage in a cynical, insidious from of sophistry. Moreover, such vicious lies would damage the credibility of an extremely important and successful program. Our success proves that America is a competitive in world markets. With minor adjustments and assistance we can compete with countries that have historically abused their labor and closed their markets to our products.

At stake here is American jobs and American pride. On behalf of my firm, the Belt Association, the National Handbag Association, the I.L.G.W.U.; and the I.P.N.W.U. I beg you not to let them kill Trade Adjustment Assistance.

Very truly yours,

JEFFREY MEHLER, *Executive Vice President.*

Dame Belt Co., Inc.,
New York, N.Y., February 20, 1985.

Hon. Theodore Weiss,
House of Representatives, Rayburn House Office Building, Washington, DC.

My Dear Mr. Weiss: I am a manufacturer of ladies belts and handbags. As you well know our industry has been almost devastated by imports. However, my firm was one of the fortunate ones. We received help in the form of technical and financial assistance from the Trade adjustment Assistance Program, for firms.

The direct loan we received from the government, coupled with the marketing production and business plans has enabled my firm to remain in business. Without it my firm would not have grown as it did and provide so many new jobs. As a result, we were able to fully repay the loan as of last year.

Therefore, I heartily endorse the Trade Adjustment Assistance program for firms, and urge you to continue funding it so that other firms may benefit as mine has.

Respectfully,

Jeffrey Mehler, *Executive Vice President.*

Congress of The United States,
House of Representatives,
Washington, DC, February 21, 1985.

Hon. Sam Gibbons,
Subcommittee on Trade, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: On February 15, 1985, I participated in a hearing in Seattle, Washington examining the adequacy of the level of Customs staffing in the Seattle District office. It was the unanimous opinion of our witnesses from the ports, the airlines, the shippers and the brokers that there was an inadequate number of Customs inspectors to do the job in an expeditious manner.

In the Seattle-Tacoma area, we have seen an explosion of trade and travel within the last five years. International passenger traffic at Sea-Tac International Airport has increased by 107% in the last five years. The Port of Seattle is America's third largest container port and the nation's tenth largest cargo airport. Since 1979, the value of Seattle's imported marine cargo has increased 51%. Air cargo imports have grown 24%. Yet, the number of Customs inspectors has declined during the last five years!

In my own district, Sea-land, the nation's largest shipper of containerized cargo, is moving its operation from Seattle to Tacoma this spring. This will result in over a 300% increase in volume of cargo for Tacoma within the next 15 months. Seattle Port Officials advise that they have already committed new business to replace Sea-land's departure. Yet, I am told by Customs officials that we will not see any increase in inspectors in Tacoma to accommodate this tremendous growth in workload.

In the Northwest, we are excited about the trade and tourism opportunities that exist with the Pacific Rim nations. Adequate Customs staffing is a critical link in our ability to attract and retain this business. Our companies, and our economy, loses money when cargo sits on our docks. Our international air passengers have a poor impression of our country when after a long flight across the ocean they sit for four hours to clear Customs possibly missing connection domestic flights.

I am mindful of the great need to cut the budget. Yet, the Customs service is one of the few agencies that actually produces a return on investment . . . approximately $17 in duties and taxes are collected for every dollar expended. And, an inadequate number of Customs inspectors and support personnel (in Seattle we have four inspectors doing data entry work because of the hiring freeze), results in businesses losing previous time and dollars. The present situation just doesn't make any sense and further cuts in Customs staff will only exacerbate an already bad situation.

I appreciate this opportunity to briefly express my concern. I am available to come before your Subcommittee and supply further information, such as transcripts from our hearing, at your request.

Thank you.

Sincerely,

Norman D. Dicks, *Member of Congress*

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

The President's budget once again proposes large cuts in the U.S. Customs Service. I am hopeful that, as in recent years, the Trade Subcommittee will lead the House in rejecting these false economies. What is needed is an increase in the strength of the Customs Service to deter the rising volume of commercial fraud, which directly threatens the health and safety of American consumers, the jobs of American workers and the revenues of American businesses.

Hearings before the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee in the 98th Congress provided example after example of foreign counterfeit products that are being shipped to this country. Substandard brake linings, bogus aircraft parts, medical devices and pharmaceuticals that do not work, personal care products that are contaminated, adulterated food—all these items and many more are entering the commerce of the United States in growing volume.

To cut the Customs Service, the first line of defense against this threat, is bad public policy. But even from a strict dollars and cents viewpoint, the proposed reductions are counterproductive. Besides protecting us from unfair and hazardous imports, the Customs Service makes money for the taxpayer. You and your colleagues know this, but the message has apparently escaped the notice of the Office of Management and Budget and the White House. If history is any guide, cutting over 850 positions would increase the budget deficit.

Instead of enlarging the deficit, let us reduce it while at the same time protecting our consumers, workers and manufacturers from unfair foreign trade practices. A selective increase in Customs personnel—adding inspectors, import specialists and agents in the field rather than bureaucrats at headquarters—would increase inspections and bring in millions in additional revenue. For example, according to a recent study done by Paul Suplizio Associates using Customs data and relatively conservative assumptions, an expenditure of $48.4 million would permit the processing of 975,000 additional merchandise entries. These increased inspections would result in the collection of $1.17 billion more revenue. The net collection would be well over $1 billion, not counting the additional criminal and civil fines and penalties that would almost certainly result from the underpayment and fraud that would be discovered by the increased inspections.

The Oversight Subcommittee's hearings and the testimony of the Customs Service strongly support the idea that increased inspections produce proportionately greater revenue. Operation Tripwire, the Customs Service program to combat commercial fraud, has grown significantly in the last two years. As the effort against fraud has increased, the number and value to violations uncovered has increased, too. In Fiscal Year 1983, the first year of operation, the anti-fraud program cost less than $70,000 while producing fines, penalties and forfeitures of about $30 million. Comparable figures are not available for Fiscal Year 1984. However, a relatively modest increase in the expenditures of funds has resulted in the discovery of an enormous amount of fraud. In July 1984, for example, the Fraud Center at Customs was tracking 420 Class I cases—the most important of the three categories of Customs cases—involving merchandise with an entered value of $2.5 billion.

The challenge facing the Customs Service is increasing. In addition to the continually rising volume of trade, the fight against drug smugglers and the effort to prevent our technological secrets from reaching Moscow, the Customs Service will be called upon to enforce the new steel agreements that are being negotiated with most steel producers in the world, as well as legislation passed in the last Congress giving copyright protection to computer chip design, to cite but two examples. The current Congress is considering legislation to increase the intellectual property protection for computer software programs and genetic engineering. If enacted, such new laws will, of course, require the Customs Service to help enforce them. And the list goes on.

This is not a partisan issue, but a matter of plain common sense. After reviewing the evidence presented at the Oversight Subcommittee's hearings, our Members voted unanimously to recommend an increase in the budget of the Customs Service in a February 1984 report. Nothing has happened since then to change my view, and I would be very surprised if my colleagues have changed their minds, either.

Mr. Chairman, I will not belabor these points. You and your colleagues have wisely rejected the Administration's attempts to lower our defenses against unfair trade practices in the past. The result of your actions has been a very successful and highly cost effective drive against customs fraud. I hope that the Trade Subcommittee will continue this policy and, if so, you will have my strong support.

Division Garment Co., Inc.,
New York, NY, February 15, 1985.

Hon. **William Green,**
U.S. House of Representatives,
Longworth House Office Building, Washington, DC.

My Dear Mr. Green: I am President of Division Garment Co., Inc., a manufacturer of ladies apparel. I want to express support for the Trade Adjustment Assistance Program for firms and would appreciate your seeing that these views are entered into the record.

This is the only program which offers technical and financial assistance to small manufacturers hurt by foreign competition. If it were not for the help my company received under the program, we might have gone out of business and over 50 persons would have lost their jobs. This would have also had an adverse effect on our contractors who employ 150 workers in their factories.

I heartily endorse trade adjustment assistance for firms and urge you to continue funding it so other import impacted firms may benefit as did my company.

Sincerely,

Myron Daly, *President.*

Dunleigh-Tuxton Corp.,
New York, NY, February 20, 1985.

Hon. **William Green,**
House of Representatives,
Longworth House Office Building,
Washington, DC.

My Dear Mr. Green: I am Chairman of of the Board of Dunleigh-Tuxton Corporation, a manufacturer of men's neckwear and wish to express whole-hearted support for the Trade Adjustment Assistance Program for firms.

As a recipient of program assistance, I can definitely state the difference that this help can make to an import impacted firm. Initially, we were assisted in developing a formal marketing plan, which when implemented resulted in 1983 sales running at a 34% increase over the prior year. Production and office controls have also been put in order to improve our operating efficieny.

We will also be receiving financial assistance in order to expand our sales to uor department and speciality store customers. In order to assure the continuity of current positive sales trend, our company will be intensifying our promotional activities.

Our achievements to date would nt have been possible without Trade Adjustment Assistance and the future of our company with its 85 employees might have been in jeopardy. We feel strongly that the program should continue and ask that you recommend its refunding.

Sincerely,

George Bruder,
Chairman of the Board.

Elegant Merchandising Inc,
New York, NY, February 19, 1985.

Hon. **Theodore Weiss,**
House of Representatives,
Rayburn House Office Building,
Washington, DC.

My Dear Mr. Weiss: I understand that the Trade Act is in jeopardy at this time because of federal budget changes and reductions.

In the past, many of my associates in the jewelry industry have recieved help from the Trade Adjustment Assistance Center.

Now, my firm needs help both financially and technically to help be more competitive with imports—but listening to the news media, budgets will be cut drastically and Trade Adjustment Assistance Program will be phased out.

I believe this is a gross mistake on the part of the Administration and Congress, since it will cause more business closings and more unemployment.

Your help is needed to keep this program in force.

Sincerely,

Herman Benedek, *President.*

FEDERAL CASTERS CORP.,
Harrison, NJ, February 20, 1985.

Hon. **FRANK J. GUARINI,**
Congressman, House of Representatives,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN GUARINI: We have learned that the Reagan Administration has proposed the elimination of the Trade Assistance program.

Our company is among many that have been injured by imports. At the present time we are working with the New Jersey Trade Adjustment Assistance Center to help us maintain our competitive place in the market. We are using both technical and loan assistance from the program.

This program must be continued and we encourage your support.

Sincerely,

CHARLES CUMELLA, *President.*

GOODALL RUBBER CO.,
Trenton, NJ, February 13, 1985.

Hon. **BILL BRADLEY,**
U.S. Senate.

Hon. **FRANK LAUTENBERG,**
U.S. Senate.

Hon. **CHRISTOPHER SMITH,**
House of Representatives:

The Reagan Administration has recommended that Trade Adjustment Assistance for firms be eliminated for firms such as mine. We disagree with the President's proposal and ask for your support to continue the program.

Many U.S. manufacturers have been hurt by foreign products and are tying to keep their businesses going. Goodall Rubber Company is a producer of industrial rubber products. In 1980 we had 1087 employees, yet foreign competition has reduced that to 684 workers. We have been working with the New Jersey Trade Adjustment Assistance Center to put together a plan to help us to be more competitive in the marketplace. The New Jersey TAAC offers consulting assistance to identify our problems, improve our operations, save jobs, and allow us to remain in business.

I ask you to give your support to the TAACs and help keep domestic small to medium-sized businesses competitive.

Sincerely,

F.B. WILLIAMSON III,
President, Chairman of the Board.

HELBROS WATCHES, INC.,
New York NY, February 21, 1985.

Hon. **WILLIAM GREEN,**
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN GREEN. We urge you to support continuation of the Trade Adjustment Assistance Program.

Helbros, one of only a small number of watch manufacturers still performing some production operations in the U.S., was in serious trouble when current management acquired the company in 1982. Now, three years later, sales have more than doubled and operations that formerly were unprofitable are profitable. Employment of our approximately 200 current employees appears secure.

For much of this three-year period we have received trade adjustment assistance provided largely by Price Waterhouse, the Big Eight accounting firm. Trade ajustment assistance provided by both Price Waterhouse and Metropolitan New York TAAC have contributed importantly to Helbros' improvement.

Very truly yours,

MARK L. KALLAN, *Chief Executive Officer.*

ICON CORP.,
Cambridge, MA, February 21, 1985.

Hon. THOMAS P. O'NEILL.
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN O'NEILL: I am writing to acquaint you with a project ICON Corporation has undertaken with the Trade Adjustment Assistance Program. Through the New England Trade Adjustment Assistance Center, we have received technical assistance in two areas: marketing and product development. The cost of these consulting services is approximately $55,000 of which our firm assumes a share.

We were on the absolute brink of bankruptcy from foreign competition and general economic conditions when help arrived from NETAAC. Through the technical assistance we have dsigned and introduced a new line of industrial controls to support American machine tools. Through the marketing support we are strengthening our abililty to compete in the marketplace.

Furthermore, the emotional support was vital to the process of reorganizing and meeting the challenge. Rather than go out of business, we have turned things around, with a current growth rate of 80% annually and a prosperous future.

I submit this letter for the record as testimony to the success of this project, and our positive opinion of the program.

Sincerely,

GEORGE A. BURNELL, *President.*

IDEAL HANDBAG FRAME MANUFACTURING CORP.,
Brooklyn. NY, February 21, 1985.

Hon. EDOLPHUS TOWNS,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN: We understand that the Trade Act budget may be reduced or worse, eliminated in the near future. This in our opinion would be a mistake and we are urging you to use your office to help in continuing the Trade Adjustment Assistance Program.

Many handbag firms in the past have benefitted from the program and now, we need technical and financial help to be competitive with imports.

Your help is needed to keep this program active.

Please enter these comments into the Congressional Record.

Sincerely,

GERALD FRIEDMAN, *President.*

KNICKERBOCKER GUILD, INC.,
Brooklyn NY, February 11, 1985.

Hon. EDOLPHUS TOWNS,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE TOWNS: I understand that the Act that funds the Trade Adjustment Assistance Center may not be renewed when it comes up for a vote this month. I urge you to support continuation of this program. It has helped my firm, Knickerbocker Guild, survive a temporary setback and has assured that my workers, who have been with the firm many, many years, will continue to be able to support their families. They all live close to my plants location.

The technical assistance I am receiving in the form of a comprehensive merchandising program, at little cost to the government, will ensure that my firm continues its turnaround begun four years ago. The revenue returned to the government in corporate taxes and the income taxes of my workers will quickly offset the governments share of this marketing assistance.

I encourage you to vote for continuation of this program so that other firms can be helped as they compete with the low-cost imports.

Sincerely,

LEONARD SPRINGER, *President.*

J.T. Koltis Enterprises, Inc.,
St. Louis, MO, February 12, 1985.

Hon. Robert Garcia,
House of Representatives, Cannon House Office Building, Washington, DC.

My Dear Mr. Garcia: I'm President of J.T. Koltis Enterprises, a manufacturer of ladies shoes. I wish to express support of the trade adjustment assistance program. This is the only program which offers technical and financial assistance to small manufacturers hurt by foreign competition. "Free trade" might be a beneficial long-term policy for multinational corporations and the U.S., but the short-term consequences for small manufacturers and their employees has been devastating. The Trade Act program provides the technical and financial assistance necessary for a small manufacturer to adjust to the increased foreign competition.

I support the Trade Act and believe it should be supported until an alternative adjustment program is available to help the small manufacturer adapt to changing government policies. Transferring investment and employment into growth markets is essential for a vital domestic economy, but, the transition must be facilitated with a rational, supportive program.

P.S. Please enter this into the Congressional Record.

Sincerely,

John T. Koltis, *President.*

Leather Goods, Plastics,
Handbags & Novelty Workers' Union, Local 1,
New York, NY, February 21, 1985.

Hon. Sam Gibbons,
Chairman,
Subcommittee on Trade, House Ways and Means Committee, Washington, DC.

Dear Mr. Gibbons: Last year I had the honor to present to your Sub-Committee testimony on behalf of the Trade Adjustment Assistance Program for Firms and Industries. Now, I would be most appreciative if this letter is also placed in the record.

I am an American citizen who deplores the path that America is taking. A path that leads us to become a service industry oriented country. I am a labor union official who supports a strong American industrial base. I am in support of the only trade law that has a record of achievement, is still in place and that gives us hope. That is, I am a in full support of the Trade Act of 1974. I am in full support of Trade Adjustment Assistance for Firms and Industries—and so is this union of workers strongly supporting this important American program.

Largely due to the many successes in the leather goods industry, the Trade Act of 1974 continues to bring excitement and hope. Hope for the industry and hope for its workers. But this hope continues to depend upon the continuance of the Trade Act of 1974. Our firms and industry needs the cooperation of government. We need infusions of technical know-how to secure and broaden our ability to compete with imports. Support by this Subcommittee to continue the Trade Act program is essential for the survival of this hundred year old industry. Union Local #1, of which I am proud to be associated as its Managing Director, is the second oldest labor union in the United States. We are 99 years young. We are asking you to help the Industry help itself. Only through cooperative effort between labor, management and government can this industry turn itself around and provide, preserve and create meaningful long-term jobs for Americans.

The benefits received by the handbag industry through the Trade Act of 1974, are largely responsible for its survival in the United States and for the survival of its workers. It has afforded the industry an opportunity to improve its competitive position through research, practical application of technical assistance and upgrading of workers skills. I believe there would not be an American handbag industry today if it were not for the Trade Act of 1974.

Over 90% of the workers in this industry are minorities. They plead for yor support; for the continuation and expansion of the Trade Adjustment Assistance program for firms and industries, because the Trade Act works.

The Trade Act of 1974 works. It works for industries and firms. The Trade Act requires that firms look after the best interests of the employees; and it works for the employees. Let's look again at the facts. In the past 15 years, handbag imports have increased (due to our "free trade" policy) almost 500%. During that same period of time, during which imports have garnered 85% of the U.S. market, approximately 50% of our handbag factories and approximately 50% of our handbag workforce have been eliminated. Although the American "free trade" policy has taken away a goodly piece of our business, the Trade Act of 1974 for industries and firms, as administered by the International Trade Administration, has now stabilized the surviving handbag industry. It has assisted them to diversify, find new markets and a nitch where import competition might have little or no affect upon it. It has helped the firms become more efficient and therefore helped many firms create additional working capital within. The Trade Act of 1974 works.

Our workers totally support the continuation and expansion of the Trade Adjustment Assistance program for industries and firms. This program for industries and firms looks after the best interests of the American worker. This program looks after the best interest of America.

Thank you.

Respectfully,

DOMENIC DI PAOLA, *Manager*.

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON TRADE

HEARINGS ON FY 1986 AUTHORIZATIONS
FOR THE U. S. CUSTOMS SERVICE,
INTERNATIONAL TRADE COMMISSION,
U. S. TRADE REPRESENTATIVE, AND ON
TRADE RECOMMENDATIONS FOR MARCH 15
REPORT TO THE COMMITTEE ON THE BUDGET

STATEMENT OF

LOS ANGELES AREA CHAMBER OF COMMERCE
FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA
LOS ANGELES CUSTOMS & FREIGHT BROKERS ASSOCIATION
LOS ANGELES STEAMSHIP ASSOCIATION
PORT OF LONG BEACH
PORT OF LOS ANGELES
CALIFORNIA TRUCKING ASSOCIATION
SOUTHERN CALIFORNIA TERMINAL OPERATORS
CENTRAL CITY ASSOCIATION
CALIFORNIA MART
CUSHMAN & WAKEFIELD
DISTRIBUTION SERVICES LTD.
MONTGOMERY WARD
J. C. PENNEY
SEARS MERCHANDISE GROUP

ON THE FY 1986 BUDGET FOR THE U.S. CUSTOMS SERVICE

FEBRUARY 22, 1985

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
HEARINGS ON FY 1986 AUTHORIZATIONS
FOR THE U. S. CUSTOMS SERVICE

The attached statements of the business community of Los Angeles and Long Beach, California are respectfully submitted for consideration of the Subcommittee on Trade with respect to the FY 1986 budget for the U. S. Customs Service.

We note that it is proposed to reduce the budget for the U. S. Customs Service by $10,609,000 in FY 1986, and to eliminate 856 full-time employees. This gravely concerns our business community.

The Los Angeles/Long Beach Customs District has long experienced a severe shortage of personnel which is seriously impairing the flow of international trade through our ports. It is now and has long been impossible for the present staff to handle the constantly accelerating volume of trade through our District, which is second only to New York in Customs duty collections and volume of trade.

The attached statements which express the deep concern of our community regarding the long inadequate staffing of the U. S. Customs Service were submitted to Congressman Edward R. Roybal, Chairman of The Appropriations Subcommittee on Treasury, Postal Service, and General Government, staff members of the House and Senate Committees on Appropriations, Congressman Glenn M. Anderson, and representatives of the U. S. Customs Service, at Los Angeles on February 14, 1985.

We respectfully request that this statement and the attachments be made a part of the record of the Hearings of the Subcommittee; that the views expressed be taken into consideration in the FY 1986 Authorizations for the U. S. Customs Service; and that the U. S. Customs Service be directed by the Subcommittee to add the much needed 149 additional positions to the personnel of the Los Angeles/Long Beach Customs District, as requested in the attachments.

Congressional and U.S. Customs Service Delegation

February 14, 1985

Congressman Edward R. Roybal, Chairman:	House Appropriations Subcommittee on Treasury-Postal Service and General Government
Congressman Glenn M. Anderson	Long Beach/Los Angeles
A. R. DeAngelus, Deputy Commissioner:	U.S. Customs Service
Aubrey A. Gunnels, Staff Assistant:	House Appropriations Subcommittee on Treasury-Postal Service and General Government
William C. Smith, Jr., Staff Assistant:	House Appropriations Subcommittee on Treasury-Postal Service and General Government
Charles R. Parkinson, Professional Staff Member:	Senate Appropriations Subcommittee on Treasury-Postal Service and General Government
Henry Lozano, Field Representative:	Congressman Roybal, Los Angeles
Quinton Villanueva, Regional Commissioner of Customs	U.S. Customs Service Pacific Region
Peter J. Baish, Asst. Regional Commissioner	U.S. Customs Service Pacific Region
Alice M. Rigdon, District Director	U. S. Customs Service Los Angeles District

Los Angeles Area
Chamber of Commerce
404 South Bixel Street
Los Angeles, California 90017-1487
(213) 629-0711

RAY REMY
President

February 14, 1985

The Honorable Edward Roybal   The Honorable Glenn Anderson:

On behalf of the below named organizations, we wish to express our appreciation to you for coming here to investigate the effects that the severe shortage of Customs personnel in our District is having on our area. These organizations include, but are not limited to, the following:

American Association of Exporters & Importers
Foreign Trade Association of Southern California
Los Angeles Area Chamber of Commerce
Los Angeles Customs & Freight Brokers Association
Los Angeles Steamship Association
Port of Long Beach
Port of Los Angeles
Southern California Terminal Operators Association

Southern California has led the nation in growth of commercial imports arriving to the U.S., yet the number of employees used to staff Customs here has not begun to keep pace.

In your investigation we believe you will find the following:

1. In relationship to the volume of customs entries handled and the duties collected, the staffing level at this District is lower than at other U.S. ports of entry.

2. There are delays in the clearance of cargo and in the normal day to day flow of paperwork within the Customhouse.

3. The delays here are greater than in other ports of arrival in the U.S.

4. That these delays are a direct result of the low staffing level of Customs in this District.

5. These delays have already cost importers millions of dollars in storage costs and lost orders and, if allowed to continue, by causing a chilling factor on the use of our ports as gateways for imports. To avoid delays importers will continue to divert cargo to other ports where Customs staffing is sufficient not to cause delays.

6. The failure of Customs headquarters to provide adequate staffing at this port has created a morale problem which threatens loss of many well trained and experienced individuals.

Customs Headquarters has not satisfactorily acknowledged our requests for equity. They view trade as a totality, and diversion of cargo from one port to another does not affect them. We, therefore, seek Congressional help in solving our problems. Substantial numbers of persons who derive their livelihood from international trade and related services are adversly affected and may be forced to relocate their businesses.

We would like to see:

1. Our Congressional Delegation provide the leadership in seeing that the U. S. Customs Service is directed to increase the number of Customs personnel in all commercially oriented jobs (inspector, import specialist and clerical functional) to bring us up to an equitable balance with the rest of the country.
2. An annual system of review set up to provide prorata increases of personnel directly related to future growth in the volume of commercial trade.

Respectfully submitted,

Ray Remy

Ray Remy
President

RR/pc

Los Angeles Area
Chamber of Commerce
404 South Bixel Street
Los Angeles, California 90017-1487
(213) 629-0711

All of us in the business community appreciate the interest that is demonstrated by this Congressional visit to the Los Angeles Customs District. Throughout the day today you will be hearing from the Foreign Trade Association of Southern California, The Los Angeles Customs and Freight Brokers Association, The Los Angeles Air Cargo Association, The Los Angeles Steamship Association, The Terminal Operators Association, The American Association of Exporters and Importers, The California Truckers Association etc. The Los Angeles Area Chamber of Commerce has spearheaded this action today to spotlight the concerns of all of these associations and their business members on the U.S. Customs Staffing problems in the Los Angeles Customs District.

As you know, the Los Angeles area has more than ½ of all the International Trade on the West Coast of the United States from Mexico to the Canadian Border. Last year the Transpacific Trade of our country exceeded the Transatlantic Trade for the first time in history. The dramatic increases in Customs collections and workload have all been accomplished here without additional Customs personnel to handle the volume. The Customs people in our District are to be congratulated for handling the extreme workloads that they currently carry. The annual Federal personnel cuts across the board have been applied regardless of the effect on the business community, additional mandated services or additional Federal responsibilities such as Drug Enforcement.

The community and the Port Authorities have done everything possible to spend money and time to keep the growing international cargo moving. Unfortunately the cut-backs in Customs Staffing have caused costly delays and frustration. The latest cut-back in services is the report that there will be no more entry processing for the Los Angeles Central Business community. The maintenance of a full Customs facility anywhere in the downtown area within one mile of the current World Trade Center location is needed for almost one third of the import entry business at this port. As Regional Commissioner Mr. Villanueva has confirmed there are"severe fiscal restraints on the entire Customs service." We ask that today you observe how these restraints, when applied across the nation without regard to work requirements or fairness to the business community can hurt the dynamic Los Angeles economy.

U.S. Customs Service - Inadequate Staffing

Customs District 27, comprising the ports of Los Angeles and Long Beach and Los Angeles International Airport, has long been grossly understaffed to handle the continually increasing volume of trade passing through our ports and airport. This is a cumulative problem which arises as a result of long continued more rapid growth of our international trade than is experienced nationally. For many years, international trade through our ports has accelerated at the rate of 25 to 30% percent per year while the national average has been 4%. Allocation of additional personnel under federal personnel restraints has continually been inadequate to handle the burgeoning work load, which far exceeds staffing.

Prior efforts to have the Customs Region or Customs Headquarters assign adequate personnel to our area have been unsuccessful. In fact, representatives of the Los Angeles Area Chamber of Commerce, the Foreign Trade Association of Southern California, and our ports have been advised that Customs Headquarters does not recognize that our area has a more critical need than any other area, and refuses to make any special allotment of personnel to handle the increasing workload. Comparison with other ports, including San Francisco, New York and Boston, confirms we are much less adequately staffed than most locations in the United States.

The situation is becoming continually more critical with added burdens assigned to the Customs Service. For example, the Interim Textile Regulations put into effect in September greatly increased the burden of Customs at our ports, which clear a greater volume of textile imports than any other port in the United States. Yet our personnel is only 25% of the staff at New York, although our Customs District is second in the United States in customs collections, and equals or exceeds the collections at New York Seaport.

During the last Congress we called attention of the Appropriations Committee to the special provisions in the Appropriation Bills for added personnel requested and obtained for various other locations, many of which had a much less critical workload than our Customs District. In a letter of the Los Angeles Area Chamber of Commerce dated Aug. 2, 1984, statistics were submitted, indicating the urgent need for at least 135 additional positions in our Customs District.

The need is now even more critical.

In addition, we are concerned that Customs plans to close the Downtown office of the Los Angeles District now located in the World Trade Center Building at 350 So. Figueroa Street. The staff there has already been reduced to the point where meaningful service to our business community is no longer afforded.

The Subcommittee on Trade, House Committee on Ways and Means, has expressed an interest, in its Oversight capacity, in working with the Appropriations Committee to insure that Customs is adequately staffed and that adequate service is afforded.

The ports have obtained petitions signed by over 1200 people urging the adequate staffing of our Customs District.

THE LOS ANGELES DOWNTOWN U.S. CUSTOMS DISTRICT OFFICE SHOULD NOT BE CLOSED AND SHOULD BE ADEQUATELY STAFFED

1. Closing the Downtown Los Angeles Office will remove from the business community a needed location to transact Customs business.

2. Thirty percent of the Customs business of the port is still generated from the central business community. Many industries, such as the textile and wearing apparel and furniture industries, are concentrated in the central area. Four of the largest Customs brokerage businesses and some smaller ones which generate 30% of the business of the District are in the central area and need facilities to file entries and process imports and exports without having to send messengers 27 miles to the harbor or airport.

3. Customs Headquarters has repeatedly promised our Congressional representatives that adequate service will be retained in downtown Los Angeles.

4. The staff in the downtown office has been repeatedly reduced during the past year or two to a state where meaningful and reasonable service is no longer available, and now consists only of the following:
   7 inspectors (5 always outside, 2 inside), 1 Cashier, 2 Clerks. Entries are not accepted or processed downtown; they are sent to the harbor for processing, resulting in delays of 4 or 5 days.
   The warehouse desk has been closed.
   There is no quota desk, although the major concentration of textile and apparel importers are downtown.
   It is feared Customs intends to reduce the downtown office to two desks, staffed by inspectors.

5. The MINIMUM STAFF downtown for minimum service to the central business district must include the following:

   Cashiers fully staffed to process Accept entries.
   Clerks to handle papers and assist the public.
   2 CRT operators to input entries in the Accept System of Releases.

   A quota desk to fully process quota entries at the location where most businesses handling merchandise subject to quotas are concentrated. Our entire port is very slow, taking 4 to 6 days to clear shipments. This is the worst service in the U.S. although Los Angeles is the primary port in the U. S. in volume of quota clearances.
   Inspection and Control staff to adequately handle rail, truck, container freight service, and provide outside examinations as needed.

6. The Downtown office need not be retained at the World Trade Center Building where rent and parking are now very high. But within a radius of one mile there are many private and public buildings which could be obtained at a reasonable rent with reasonable parking facilities.

7. A Customs office centrally located is also needed to afford information to the public, and a place to file protests and other legal documents within limited statutory periods.

FOREIGN
TRADER
THE MONTHLY NEWSLETTER OF THE FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA
Vol. 4 January, 1985 No. 12

L.A. Customs District Leads Nation

Statistics just compiled by the U.S. Customs Service in Washington show Customs collected more revenues and taxes in FY 1984 than it did in the preceding year.

In the final quarter of FY 1984, the Los Angeles Customs District Office led the nation in collection, followed by the New York, JFK Airport, San Francisco and Seattle.

The list below gives the figures for the top ten Districts across the nation and the dollar amount of their collections during the last three months of the last Fiscal Year (July, August, September):

★Los Angeles	$588,986,194
New York	$501,008,513
JFK Airport	$384,568,443
San Francisco	$204,205,198
Seattle	$168,252,178
Chicago	$147,488,469
Philadelphia	$128,628,174
Boston	$110,886,276
Houston	$112,783,426
Detroit	$110,074,542

Rounding out the top fifteen Customs Districts in the country were New Orleansm Baltimore, Savannah, Tampa and Newark.

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The Foreign Trade Association is located at 350 South Figueroa, Suite 226, Los Angeles, CA 90071

PUBLIC BULLETIN

Los Angeles District

number 84-86 *date* July 19, 1984

1610 JUL 23

SUBJECT: Overtime Requests

The volume of cargo processed has increased by 24% in the past year at the port of Los Angeles and Long Beach, yet the staffing of the U. S. Customs Service has remained static. In an attempt to continue to provide the importers and carriers with the service to meet their growing needs for the expeditious handling and release of cargo, the Los Angeles District will honor requests from the carriers for the services of inspectors on an overtime basis, to examine and release cargo.

Effective July 16, 1984 the Customs Service will honor overtime requests from the carriers for entry releases and manifest reconciliations. This service will be provided when the carrier specifically requests inspector overtime. The number of inspectors needed will be designated by the carrier, and will be in addition to the normally assigned inspector for discharge supervision of unlading cargo vessels; i.e., the assignment of inspectors to release cargo and reconcile manifests will not be contingent upon a vessel discharging as is presently the practice.

Requests for this overtime service will be made through the same Customs channels as are presently in use; i.e., a call to the supervisor or the headquarters dock office of your area.

Acting DISTRICT DIRECTOR

RECEIVED
[illegible] 1984

u.s. customs service, 300 so. ferry st., terminal island, ca. 90731

July 11, 1984

✱ LOS ANGELES DISTRICT ✱

	■ OCEAN/SURFACE	■ AIR	■ TOTAL	■ CHANGE
■ COLLECTIONS				
AS OF July 1, 1984	$1,275,558,451.	$225,256,406.	$1,500,814,857	
AS OF July 1, 1983	$ 903,412,209.	$154,258,889.	$1,057,671,098.	+$443,143,759. (42%)
■ FORMAL ENTRIES				
AS OF July 1, 1984	264,760	197,493	462,253	
AS OF July 1, 1983	214,417	159,651.	374,068	+88,185 (24 %)
■ INFORMAL ENTRIES				
AS OF July 1, 1984	5,659	56,192	61,851	
AS OF July 1, 1983	5,032	57,680	62,712	-861
	■ OCEAN	■ AIR		
■ PASSENGERS				
AS OF July 1, 1984	154,821	1,630,711		
AS OF July 1, 1983	138,137	1,478,628		
	CHANGE +16,684 (12%)	CHANGE +152,083 (10%)		

PREPARED BY DISTRICT INFORMATION OFFICE

RECEIVED JUL 27 1984

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
PACIFIC REGION

JUL 24 1984

REFER TO
MAN-5 O:I EAB

Mr. Harold S. Voegelin
Chairman, International Commerce Committee
Los Angeles Area Chamber of Commerce
404 South Bixel Street
Los Angeles, California 90017

Dear Mr. Voegelin:

Your letter to the Los Angeles District Director, Ms. Rigdon, was forwarded to our office for response. Thank you for your interest in the support and expansion of the Customs Service in the Los Angeles area. As you are aware, the federal government has been making a concerted effort during recent years to reduce total government spending. As a result of this effort, the entire Customs Service has been operating under severe fiscal constraints.

In response to your specific questions, you are correct that our World Trade Center Office has declined from 24 total positions in 1978 to 11 at the present time. However, of these reductions only two have been Customs Inspectors. At the Los Angeles Harbor we presently have 104 Customs Inspectors; this includes supervisory positions assigned to the Harbor.

We have enclosed some workload data for the Los Angeles District covering the fiscal years 1980-83. Hopefully, this provides you with the information you are seeking. If you need additional information, or if we may be of further assistance, please feel free to call the Regional Director of Inspection and Control at (213) 688-5932.

Sincerely,

for Richard G. McMuller
QUINTIN L. VILLANUEVA, JR.
Regional Commissioner

Enclosure

LOS ANGELES DISTRICT WORKLOAD DATA

FISCAL YEAR 1983

DISTRICT	# INSP.	PASSENGERS[1] PROCESSED	MERCHANDISE		FORMAL ENTRIES		TOTAL COLLECTIONS ($000)
			RELEASES	EXAMS	NO. FILED	AMT. COLLECTED ($000)	
Fiscal Year 83	268	2,525,388	1,041,628	270,876	525,338	1,419,507	1,501,500

FISCALS YEARS 1980, 1981, & 1982

DISTRICT	# INSP.	DUTIABLE ENTRIES	TOTAL MERC EXAMS	CONTAINERS PROCESSED	ENTRIES INVOLVING OTHER AGENCIES	COMMERCIAL			PERSONS		DUTIABLE DECS.
						VESSELS	AIRCRAFT	BILL OF LADING	SEA	AIR	
Fiscal years 80	287	301,662	429,512	364,860	115,053	4,240	18,809	716,965	81,263	2,169,108	31,519
81	294	317,608	399,959	407,312	139,092	4,569	19,632	960,109	256,478	2,251,934	51,686
82	286	345,922	321,190	434,588	124,260	4,921	18,077	1,080,038	296,421	2,151,378	61,830

[1] Air, Land & Sea

FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA
350 So. Figueroa St - Rm 226
Los Angeles, CA 90017
(213) 627 0634

OBJECTIVE TO ACHIEVE - THE FASTER MOVEMENT OF CARGO AFTER ITS ARRIVAL AT THE PORTS TO AVOID UNNECESSARY DELAYS AND EXPENSES TAKING INTO ACCOUNT THE DRAMATIC INCREASE IN OVERALL VOLUME AT SOUTHERN CALIFORNIA PORTS, BOTH IN COLLECTIONS AND NUMBER OF ENTRIES.

SOME DEFINITIONS ARE IN ORDER:

1) THE IMPORTER IS THE PARTY WHO BUYS THE MERCHANDISE ABROAD AND IMPORTS IT INTO THE USA: NORMALLY HE PAYS FOR IT BEFORE ITS ARRIVAL AT THE PORT.

WHEN WE THINK OF IMPORTS WE THINK OF SONYS, TOYOTAS, HONDAS, SCOTCH WHISKEY, FRENCH WINES: IN REALITY A SUBSTANTIAL AMOUNT OF IMPORTED MERCHANDISE IS BOUGHT BY MAJOR RETAILERS SUCH AS SEARS, K-MART, MONTGOMERY WARD, J.C. PENNEY, THE MAY COMPANY, AND A GREAT NUMBER OF APPAREL AND SHOE MANUFACTURERS AND DISTRIBUTORS. LOWER PRICED ITEMS IN THE AREA OF CLOTHING, FOOTWEAR, AND HOUSEHOLD ITEMS REPRESENT A VERY LARGE PERCENTAGE OF IMPORTS.

2) THE CUSTOMS BROKER IS THE PERSON, OR COMPANY, LICENSED BY THE U.S. CUSTOMS SERVICE TO TRANSACT CUSTOMS BUSINESS ON BEHALF OF IMPORTERS. THE BROKER IS NOT A PARTY TO THE COMMERCIAL IMPORT TRANSACTION: HE HAS NO STAKE IN IT. THE BROKER PROVIDES A SERVICE TO THE IMPORTERS IN TWO AREAS: (a) HE PREPARES THE NECESSARY DOCUMENTATION (ENTRY) TO BE PRESENTED TO CUSTOMS, MUCH LIKE CPA's PREPARE A TAX RETURN FOR THEIR CLIENTS, (b) COORDINATES THE MOVEMENT OF THE IMPORTED CARGO FROM THE PLACE OF ARRIVAL (PIER OR TERMINAL) TO ITS ULTIMATE DESTINATION (95% OF IMPORTED TRANSACTIONS INTO THE USA ARE HANDLED BY BROKERS).

3) STEAMSHIP LINES, OCEAN AND AIR TERMINALS, TRUCKERS AND RAILROADS ALL PARTICIPATE IN THE TRANSPORTATION OF GOODS FROM ORIGIN TO DESTINATION.

4) THE ENTRY (THERE ARE VARIOUS TYPES OF ENTRIES) IS THE DOCUMENT PRESCRIBED BY LAW FOR EACH IMPORTED TRANSACTION (MUCH LIKE A 1040 TAX FORM FOR THE IRS) WHICH MUST BE PREPARED AND FILED BY THE BROKER AND ACCEPTED BY CUSTOMS BEFORE THE MERCHANDISE CAN BE RELEASED AND MOVED TO ITS ULTIMATE DESTINATION.

5) ROLE OF THE BROKER - THE BROKER PREPARES THE ENTRY WITH THE INFORMATION AND DOCUMENTS PROVIDED BY THE IMPORTER AND FILES IT WITH CUSTOMS: CUSTOMS PROCESSES THE ENTRY, ACCEPTS IT AND RELEASES THE MERCHANDISE FOR CONSUMPTION.

THE BROKER, AFTER RELEASE, INSTRUCTS AN INLAND CARRIER, A TRUCKER OR A RAILROAD, TO PICK UP THE MERCHANDISE AT THE STEAMSHIP TERMINAL AND DELIVER IT AS INSTRUCTED BY THE IMPORTER.

THE BROKER'S PROFIT IS NOT DIMINISHED BY DELAYS OR EXTRA EXPENSES DUE TO THE SLOW PROCESSING OF ENTRIES: HIS FEES ARE EARNED UPON FILING THE ENTRY. DELAYS USUALLY HELP THE BROKER'S CASH FLOW. BROKERS OPERATE OFFICES AT DIFFERENT LOCATIONS IN THEIR AREA TO MEET THE SERVICE NEEDS OF THEIR CLIENTS: THEY ARE NOT NECESSARILY LOCATED WHERE THE MERCHANDISE ARRIVES. FOR INSTANCE, THE DOWNTOWN LOS ANGELES AREA AND FINANCIAL CENTER ARE HOME TO SEVERAL BROKERAGE COMPANIES WHO PRODUCE APPROXIMATELY 28/30% OF ALL THE ENTRY TRANSACTIONS PRESENTLY HANDLED BY CUSTOMS AT THE SEAPORT.

6) PROCESSING ENTRIES - ENTRIES WHICH COVER MERCHANDISE PRESENTLY SUBJECT TO RESTRICTIONS SUCH AS TEXTILE AND TEXTILE PRODUCTS ARE THE ONES SUBJECT TO THE MAJORITY OF PROCESSING DELAYS: BRIEFLY,

a) ENTRIES CAN ONLY BE PRESENTED WHEN THE VESSEL HAS ARRIVED (QUOTA) OR THEY ARE SUBJECT TO PARTICULAR SCRUTINY ON THE PART OF CUSTOMS (COMMODITY SPECIALIST REVIEW).

b) ACTUAL AVERAGE PROCESSING TIME OF THE ABOVE ENTRIES AT THE SEAPORT OF LOS ANGELES/LONG BEACH IS PRESENTLY (DEC/JAN) 6.5 CALENDAR DAYS, CASES WITH 8/10 DAYS PROCESSING TIME ARE NOT UNUSUAL. IN FAIRNESS TO THE IMPORTING PUBLIC IN SOUTHERN CALIFORNIA, THE ACTUAL PROCESSING TIME MUST BE CURTAILED: FOR INSTANCE, SAN FRANCISCO - 2 DAYS; SEATTLE - 3/4 DAYS; NEW YORK - 2/3 DAYS;, NEW ORLEANS - 1 DAY; BOSTON - 2 DAYS.

c) STORAGE, DEMURRAGE, AND DETENTION CHARGES ARE ASSESSED BY PORT AUTHORITIES FIVE WORKING DAYS AFTER THE VESSEL HAS FINISHED UNLOADING: SUCH CHARGES CAN BE SUBSTANTIAL, FOR INSTANCE, DEMURRAGE ON A 40' CONTAINER (22 TONS) OF CARGO, THE DAILY RATE IS $15 PER DAY FOR THE FIRST FOUR DAYS: ON THE FIFTH DAY THE RATE IS $40 PER DAY.

d) ENTRIES NOT SUBJECT TO REVIEW (QUOTA OR SINGLE ENTRIES) AND COVERED IN (a) ARE PRESENTED TO A LOCATION (ACCEPT SITE) WHERE THEY ARE SCREENED WITH THE HELP OF A COMPUTER AND EITHER RELEASED OR RELEASED WITH CONDITIONS SUCH AS SAMPLING OR EXAMINATION. ACCEPT TERMINALS WERE DESIGNED TO OPERATE IN AREAS WHERE BROKERS COULD CONVENIENTLY PRESENT THE ENTRIES (TERMINAL ISLAND CUSTOMHOUSE, LOS ANGELES INTERNATIONAL AIRPORT, WORLD TRADE CENTER, LONG BEACH HARBOR AND LOS ANGELES HARBOR).

7) CONSEQUENCES - (a) STORAGE AND DEMURRAGE CHARGES ON PIERS PAID BY IMPORTERS, (b) CONGESTION AT TERMINALS - POOR UTILIZATION OF EXPENSIVE EQUIPMENT, (c) SIGNIFICANT INCREASES IN INLAND FREIGHT CHARGES DUE TO WAITING TIME AT THE PIERS: THE ABOVE CHARGES ARE ALSO PAID BY IMPORTERS.
(d) EQUIPMENT SHORTAGES IN CONTAINERS AND CHASSIS (USED TO MOVE THE CONTAINERS) A GREAT EXPENSE TO STEAMSHIP LINES. (e) MORE IMPORTANT THAN ALL THE ABOVE, THE IMPORTER CANNOT SELL THE GOODS HE HAS PURCHASED AND PAID FOR WEEKS IN ADVANCE: THEREFORE, HE CANNOT TURN OVER HIS MONEY, LOSES ORDERS AND CONTRACTS.

8) REMEDIES - (a) SUBSTANTIAL INCREASE IN STAFFING IN THE AREA OF CUSTOMS PERSONNEL WHO REVIEW AND APPROVE QUOTA OR RESTRICTED MERCHANDISE ENTRIES: THE COMMODITY SPECIALIST (OR CST) IS A VERY QUALIFIED AND INDISPENSABLE PART OF THIS PROCESS.

B) SUBSTANTIAL INCREASE IN STAFFING IN THE AREA OF GENERAL CLERKS AND CRT OPERATORS WHO PHYSICALLY INPUT DATA ON ENTRIES IN THE COMPUTER OR HANDLE THE FLOW OF ENTRIES IN GENERAL.

c) AN INCREASE IN THE AREA OF CLERKS WHO DISTRIBUTE ENTRIES AND MAIL WITHIN THE CUSTOMS SYSTEM: TYPISTS TO TIMELY PREPARE THE MULTITUDE OF NOTICES WHICH CUSTOMS ISSUES.

(d) AN ESTABLISHMENT (AS PREVIOUSLY PROMISED) OR CRT OPERATORS POOL TO MAN THE ACCEPT COMPUTER PROGRAM AND ADDITIONAL INSPECTORS IF NEEDED.

(e) AN ASSURANCE THAT ALL U.S. CUSTOMS FACILITIES (WT CENTER, TERMINAL ISLAND AND LAX) ARE PROPERLY STAFFED TO RENDER THE NECESSARY SERVICES TO THE INTERNATIONAL TRADE COMMUNITY TAKING INTO ACCOUNT THE GROWTH OF TRADE IN THE SOUTHERN CALIFORNIA AREA.

CENTRAL CITY ASSOCIATION OF LOS ANGELES

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523 West 6th Street Suite 200
Los Angeles California 90014
Telephone 213 624 1213

January 31, 1985

Ms. Alice Rigdon
District Director
U.S. Customs
300 South Ferry Street
Terminal Island, CA 90731

Dear Ms. Rigdon,

The Central City Association is a non-profit organization designed to promote a prosperous economic, business, cultural, and residential environment in downtown Los Angeles.

On behalf of our 230 members, we urge you to maintain a satellite office of the U.S. Customs Department in downtown Los Angeles. We hope that you will either reconsider abandoning your existing office in the World Trade Center or consider moving to another centrally located office near your existing location.

As the second-largest financial center in the nation, and as the leading gateway to the burgeoning trade with the Pacific Rim, we feel that it is essential for a customs office to be located in downtown Los Angeles.

If we can assist you in any way to encourage you and your office to reconsider your decision to move out of downtown, please feel free to call upon us.

Sincerely,

Rodney W. Rood

Rodney W. Rood
Chairman

cc: Mayor Tom Bradley
Supervisor Ed Edelman
Councilman Gilbert Lindsay
Senator Pete Wilson
Senator Alan Cranston
Assemblywoman Gloria Molina
Assemblyman Mike Roos
State Senator Art Torres
Ray Remy, President, Los Angeles Chamber of Commerce
✓H. Carl Muhlstein, Vice President, Cushman Wakefield
Christopher L. Stewart, President, CCA

CALIFORNIA MART
AN INTERNATIONAL MERCHANDISE CENTER • 110 EAST NINTH STREET LOS ANGELES CALIFORNIA 90079-2827 • (213) 620-0260

January 11, 1985

Ms. Alice Rigdon
District Director
U.S. Customs
300 S. Ferry Street
Terminal Island, CA 90731

Dear Ms. Rigdon:

The California Mart and its tenants have strong interests in the Import and Export community.

We feel that it is vital to the U.S. Customs office to retain a downtown location to service the needs of our tenants, their suppliers, and their vendors. We have 1,800 tenants representing over 9,000 lines of merchandise in the apparel, accessory, and shoe areas.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

CALIFORNIA MART

Sidney Morse

SM/mc

Cushman & Wakefield of California, Inc.
515 South Flower Street, Los Angeles, CA 90071
(213) 485-1424

CUSHMAN &
WAKEFIELD.

January 3, 1985

Ms. Alice Rigdon
District Director
U. S. Customs
300 S. Ferry Street
Terminal Island, CA 90731

Dear Ms. Rigdon:

It has come to my attention that the U. S. Customs is contemplating the abandonment of its downtown Los Angeles satellite office in the World Trade Center.

On behalf of many of my clients and acquaintances who interact with the downtown office, we strongly urge you to maintain a centrally located office near the existing location. The consolidation to Terminal Island would add a substantial financial and operational hardship to these businesses. There is an abundance of inexpensive lease opportunities with ample parking at a fraction of your renewal rate at the World Trade Center.

I will call your office to discuss this matter.

Thank you,

CUSHMAN & WAKEFIELD OF CALIFORNIA, INC.

Carl

H. Carl Muhlstein
Vice President

HCM/pl

Speakers - U. S. Customs Service, Field Inspection Briefing held at Port of Los Angeles, Board Room, February 14, 1985, 1400 hrs.

Ezunial Burts	Executive Director	Port of Los Angeles
James H. McJunkin	Executive Director	Port of Long Beach
Robert D. Kleist	Representing	Los Angeles Steamship Association
John F. Petersen	President	Los Angeles Customs and Freight Brokers Association, Inc.
John Harrison	Representing	California Trucking Association
Jane Beseda	Former U.S. Customs Service Career Person	
Subash Agarwal	Director Customs/Import Procedures, Sears Merchandise Group	
C. T. Liang	Buying Office	J.C. Penney Company, Inc.
Leo McKenna	Director of Transportation	Montgomery Ward
Arthur L. Litman	Representing	Foreign Trade Associations of Southern California

COMMENTS OF

JAMES H. McJUNKIN

EXECUTIVE DIRECTOR

PORT OF LONG BEACH

BEFORE
CONGRESSMAN EDWARD ROYBAL, CHAIRMAN
HOUSE APPROPRIATIONS SUBCOMMITTEE ON
TREASURY - POSTAL SERVICE AND
GENERAL GOVERNMENT
AND
CONGRESSMAN GLENN M. ANDERSON
LONG BEACH/LOS ANGELES
ON THE
ADEQUACY OF U. S. CUSTOMS SERVICE
STAFFING IN THE
LOS ANGELES DISTRICT

FEBRUARY 14, 1985
LOS ANGELES, CA

MR. CHAIRMAN, MY NAME IS JAMES H. McJUNKIN. I AM EXECUTIVE DIRECTOR OF THE PORT OF LONG BEACH, REPRESENTING THE LONG BEACH BOARD OF HARBOR COMMISSIONERS. I WISH TO JOIN WITH OUR FRIENDS IN THE PORT OF LOS ANGELES IN WELCOMING YOU TO THE HARBOR AND I WISH TO THANK YOU AND CONGRESSMAN ANDERSON FOR TAKING THE TIME TO CONDUCT THIS U.S. CUSTOMS SERVICE FIELD INSPECTION AND BRIEFING.

THE PORTS IN THE SAN PEDRO BAY HAVE BEEN EXPERIENCING A PHENOMENAL GROWTH IN CARGO VOLUME. JUST THIS LAST YEAR WE SAW A 46% INCREASE IN CONTAINERIZED CARGO THROUGH THE PORT OF LONG BEACH. A GREATER PERCENTAGE OF THIS CARGO IS IMPORT, FOR AS YOU MAY KNOW, THE SOUTHERN CALIFORNIA PORTS CURRENTLY EXPERIENCE A HEAVIER MOVEMENT OF IMPORT CARGO AS OPPOSED TO EXPORTS, AND WE ARE QUITE PROUD OF OUR CAPABILITY TO SERVICE THE IMPORTER AND CONSUMER NEEDS OF THE LOS ANGELES BASIN, WESTERN STATES AND, IN GROWING PROPORTIONS, THE MIDWEST, GULF AND EAST COAST THROUGH EXPANDING INTERMODAL CAPABILITIES.

OUR GROWTH FAR EXCEEDS THE NATIONAL AVERAGE AS PACIFIC TRADE HAS TAKEN A LEAD OVER ATLANTIC TRADE IN THE LAST YEAR. IN THE PAST FIVE YEARS, PORT OF LONG BEACH IMPORT TONNAGE HAS INCREASED 40%, CUSTOMS ENTRIES HAVE INCREASED 60%.

THE PACIFIC RIM HAS OUR FOCUSED ATTENTION, YET AS WE PLAN TO CONTINUE TO KEEP PACE WITH THIS GROWTH WE HAVE BEEN EXTREMELY CONCERNED THAT THE U.S. CUSTOMS SERVICE HAS FAILED TO RECOGNIZE OR MEET THE CURRENT NEEDS IN THE SAN PEDRO HARBOR COMPLEX. IN THE PAST FISCAL YEAR, AS YOU HAVE NO DOUBT HEARD EARLIER TODAY, CUSTOMS ENTRIES IN THE LOS ANGELES DISTRICT HAVE INCREASED 24%, AND CUSTOMS COLLECTIONS HAVE INCREASED 42%. DURING THIS PERIOD WE HAVE LOGGED MANY COMPLAINTS FROM THE IMPORT COMMUNITY, SOME OF WHICH YOU MAY HEAR LATER AS REPRESENTATIVES FROM SEVERAL LEADING DEPARTMENT STORE COMPANIES, HAVE COME TO LOS ANGELES TO

SPEAK TO YOU ON THEIR OWN BEHALF. THE COMPLAINTS CENTER AROUND DELAYS IN CLEARING IMPORT CARGO, BOTH QUOTA AND NON-QUOTA GOODS. WE CONCUR WITH INDUSTRY EXPERTS WHO INDICATE THAT THESE DELAYS ARE PRIMARILY CAUSED BY AN INSUFFICIENT NUMBER OF CARGO INSPECTORS AND QUALIFIED IMPORT SPECIALISTS. THIS STATEMENT IS NOT NEW! WE HAVE FOR MANY YEARS FELT THAT THE U.S. CUSTOMS SERVICE HAS NOT ADDRESSED THE FACT THAT THE INCREASING VOLUME OF CARGO THROUGH OUR PORTS REQUIRE ADDITIONAL STAFF. WE BELIEVE THE LOS ANGELES CUSTOMS DISTRICT DIRECTOR, HOWEVER, HAS MADE EVERY EFFORT POSSIBLE TO MEET THE INCREASING DEMAND FOR SERVICE, BUT AT THIS TIME, SIMPLY DOES NOT HAVE ENOUGH STAFF IN THE DISTRICT TO DO THE JOB.

THERE APPEARS TO BE AN INEQUITABLE DISTRIBUTION OF EXISTING CUSTOMS STAFF. WE NOTE THE COMPARISON OF 104 INSPECTORS IN THE SAN PEDRO HARBOR, COMPARED TO 500 IN THE NEW YORK/NEWARK SEAPORT DISTRICT.

WE BELIEVE MORE STAFF IS NEEDED IN THE LOS ANGELES DISTRICT TO SPEED CLEARANCE OF ENTRYS, QUOTA CLEARANCES AND CARGO INSPECTIONS. WE BELIEVE THAT NEARLY 150 ADDITIONAL POSITIONS ARE REQUIRED TO MEET THE PRESENT TRAFFIC DEMAND IN THE DISTRICT. (PLEASE SEE ATTACHMENT A).

IT SHOULD BE NOTED THAT THE INCREASE IN OUR TRAFFIC FLOW, PLUS THE ADDED FACTOR OF ADDITIONAL QUOTA RESTRICTIONS THIS YEAR, WILL ADD UP TO NEW LEVELS OF WORKLOAD DEMAND AND THEREFORE, ANY USE OF HISTORIC MEASURES OF STAFFING IN THE DISTRICT MUST TAKE THIS INTO ACCOUNT. WE HAVE HEARD THAT WE CAN EXPECT AT LEAST A 400% INCREASE IN ITEMS REQUIRING QUOTA CLEARANCE THROUGH THE PORT THIS YEAR. THE CLEARANCE OF QUOTA GOODS THROUGH THE LOCAL DISTRICT OFFICE TAKES SUBSTANTIALLY LONGER THAN THE CLEARANCE AND RELEASE OF NON-QUOTA GOODS. ADDITIONALLY, WE HAVE A LOT OF TEXTILE IMPORTS THROUGH THIS AREA; SAMPLING AND INSPECTIONS REQUIRE MORE U.S. CUSTOMS STAFF ATTENTION. THE LOS

ANGELES AREA IS ALSO A LEADER IN "HIGH-TECH" EXPORTS AND THE CUSTOMS SERVICE, HAS HEAVIER EXODUS OPERATION RESPONSIBILITES HERE AS WELL.

OUR CARGO PROJECTIONS INDICATE A DOUBLING IN TONNAGE IN THE NEXT 10 YEARS: THE U.S. CUSTOMS SERVICE IS APPROACHING THE FUTURE PROPERLY THROUGH THE STUDY AND INAUGURATION OF COMPUTERIZED PROGRAMS SUCH AS ACS, ABI AND AMS. THE PORTS APPLAUD THEIR PROGRESSIVE THINKING AND WILL SUPPORT THE CUSTOMS SERVICE WHERE EVER POSSIBLE IN THIS ENDEAVOR, HOWEVER, THE COMPUTERIZED STRUCTURE OF TOMORROW IS NOT HELPING TO MEET THE CURRENT TRAFFIC FLOW DEMANDS OF TODAY. THE INCREASE IN CARGO EXCEEDS THE IMPLEMENTATION OF AUTOMATION. WE NEED IMMEDIATE ATTENTION TO THIS STAFFING ISSUE OR WE WILL SEE OUR PRESENT IMPORTERS DIVERT THEIR CARGO TO OTHER PORTS, WHERE U.S. CUSTOMS STAFFING IS ADEQUATE AND ABLE TO ENSURE A REASONABLY QUICK CLEARANCE OF IMPORTS.

WE WOULD LIKE CONGRESS TO DIRECT U.S. CUSTOMS SERVICE TO INCREASE THE NUMBER OF CUSTOMS PERSONNEL IN ALL COMMERCIALLY ORIENTED JOBS (INSPECTOR, IMPORT SPECIALIST AND CLERICAL FUNCTION) TO BRING US UP TO AN EQUITABLE BALANCE WITH THE REST OF THE COUNTRY.

WE BELIEVE IT NECESSARY TO ESTABLISH AN ANNUAL SYSTEM OF REVIEW TO CONTINUE TO PROVIDE PRORATE INCREASES OF PERSONNEL DIRECTLY RELATED TO FUTURE GROWTH IN THE VOLUME OF COMMERCIAL TRADE.

WE LOOK FORWARD TO FORMAL HEARINGS AND THE PROPOSED GAO STUDY ON THE QUESTION OF EFFICIENT CUSTOMS STAFFING IN HOPES THAT THIS MAY BRING ABOUT EQUITABLE TREATMENT OF THE LOST ANGELES CUSTOMS DISTRICT.

I HAVE ATTACHED SEVERAL FACT SHEETS TO MY WRITTEN COMMENTS FOR YOUR REVIEW.

THANK YOU.

ATTACHMENTS

A. ESTIMATE OF PERSONNEL NEEDS FOR THE LOS ANGELES CUSTOMS DISTRICT.

B. TRADE PAPER ARTICLE: "ACCEPT UNACCEPTABLE?", PACIFIC TRAFFIC MAGAZINE, DECEMBER 1984.

C. TRADE PAPER ARTICLE: "A CRUSH AT CUSTOMS", TRANSPORTATION 2000 MAGAZINE, DECEMBER 1984.

D. PORT OF LONG BEACH INBOUND CARGO REPORT (AND FORECAST).

E. CUSTOMS REGIONAL STAFFING AND LOS ANGELES DISTRICT PERCENTAGE.

F. U.S. CUSTOMS COLLECTION COMPARISON, STAFF TO REVENUE, LOS ANGELES TO NEW YORK/NEWARK.

ATTACHMENT A

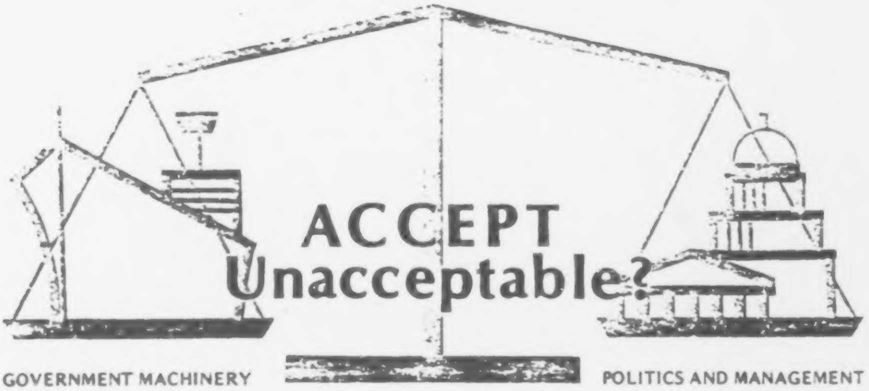
FEBRUARY 14, 1985

ESTIMATE OF ADDITIONAL PERSONNEL NEEDS - LOS ANGELES/LONG BEACH

(COMMERCIAL OPERATIONS)

	SEAPORT	AIRPORT	DOWNTOWN LOS ANGELES
INSPECTORS	35	25	3
QUOTA AND OPERATIONS CLERKS	15	10	4
INPUT CLERKS (ACCEPT)	18	-0-	3
COMMODITY SPECIALISTS	25	6	4
CASHIER	-0-	-0-	1
	93	41	15

TOTAL PERSONNEL URGENTLY NEEDED
IN LOS ANGELES/LONG BEACH DISTRICT
FOR COMMERCIAL OPERATIONS: 149



ACCEPT Unacceptable?

GOVERNMENT MACHINERY NOT MEETING OBJECTIVES

POLITICS AND MANAGEMENT CITED AS PROBLEMS

By Michael D. White

My memories sometimes shift back to the day years ago when my father came home from the drugstore with a package of cigarette papers, a pouch of tobacco and a curious little machine that resembled a cross between a miniature offset printing press and a weaving loom.

I stared in silent wide-eyed wonder as my dad set the machine on the kitchen table and prepared for what seemed to be a ritual.

Carefully, he moistened the edge of one of the small squares of paper and delicately inserted one of its edges into the machine. He shook some tobacco from the pouch onto the paper, spreading it out with his finger. "Watch," he said as he pulled the little handle on the side of the miniature press.

I watched enthralled, but what came out of the other end of the contraption wasn't what either my dad or I had expected. Instead of a neatly rolled cigarette ready for lighting, a shredded compost of paper and tobacco spilled out onto the formica.

Shifting his resigned gaze from the little heap to me, my father said with a sigh, "Remember, son, when you think you've got it all together and run it through the works, what you expect isn't always what comes out."

On November 5, after several postponements over the past ten months, the U.S. Customs Service implemented the computerized ACCEPT (Automated Cargo Clearance Enforcement Processing Technique) program in the Los Angeles Customs District, which encompasses the entry ports of Los Angeles/Long Beach, Las Vegas and Port Hueneme.

The program is designed, simply, to "help Customs make better decisions as to which import cargoes should be inspected and which needn't be," according to Aileen F. Colon, deputy assistant director of the Los Angeles Customs District and coordinator of the district's ACCEPT program.

Conceived at Customs headquarters in Washington, D.C., ACCEPT has been put into operation at approximately twenty-four other ports across the country including Philadelphia, Chicago, Baltimore, New Orleans and Houston, as well as Seattle, Portland, Oakland, San Francisco and San Diego on the west coast.

Basically, before the ACCEPT program took effect, the documentation accompanying an import shipment was relayed from the customhouse broker handling the shipment to the U.S. Customs inspector on hand at the dock. The inspector then had the power to make a discretionary decision as to whether or not a cargo should be inspected.

Acting on the inspector's decision, the documentation would then be processed and the cargo released or inspected.

Under the ACCEPT scheme, the discretionary decision-making power of the on-site inspector is supplemented by the use of a programmed computer system that is intended to speed up the entry process and release cargo "faster and more efficiently."

According to the plan, the entry paperwork, after being processed by the broker, is delivered to one of the five ACCEPT sites operated by Customs in the Los Angeles District area.

The sites are located at the customhouse on Terminal Island; the World Trade Center in downtown Los Angeles; Los Angeles International Airport (because of the high number of customhouse brokers located near the airport); Long Beach Harbor and Los Angeles Harbor. Only ocean cargoes are currently affected by the ACCEPT system. Air import cargoes will come under the program within two years.

At the sites, none of which is located where the incoming cargoes are actually located, Customs inspectors enter

(Continued on page 38)

ACCEPT Unacceptable?

(Continued from page 10)

the information on the cargo documentation into the computer system which then compares that information with data that has been programmed into the computer for the purpose of evaluation and analysis.

Such data programmed into the ACCEPT computer includes the names of brokers that have had a high incidence of cargoes requiring inspection in the past, importers having a large number of improperly completed documents, and so on.

The computer then reviews the programmed data with the information input by the inspector and makes the decision as to whether or not an inspection is required.

Up until November 5, the date of the ACCEPT implementation, approximately three percent of the entries processed by Customs were subject to examination.

How that figure will be affected by ACCEPT is open to question depending on who is answering the query.

According to the optimistic predictions released by Customs prior to November 5, the number of cargoes subject to "intensive examination," which is defined as anything from a simple viewing of the cargo to the complete devanning of a container, will only rise to four or five percent.

On the other hand, the Los Angeles Customs and Freight Brokers Association (LACFBA), which has a close interest in the ACCEPT program, has forecasted an increase of up to 13 percent.

"This is a workable program," Colon states. "With a port system as large as Los Angeles/Long Beach, there are bound to be some initial start-up snags."

What are some of those "snags" and who do they affect? Again, it depends on who you ask.

"The whole thing is an ungodly mess," says a spokeswoman for a large southern California beverage importer. "We've had shipments sitting on the docks since the beginning of the month that haven't even been cleared yet. The Christmas season is here, our customers are screaming at us and the demurrage charges are killing us."

Demurrage is the penalty charged to the shippers or receivers of freight, usually at a stated dollar sum per day, for storage of a container or other cargo beyond the free time for loading or unloading.

"We're really lucky that the steamship lines have waived their demurrage fees for the time being, but it's the delays in the Customs' processing of the documentation that's really costing us a lot."

She estimated that her company is paying approximately $1000 a day in penalties because of delayed cargo clearance. "That's $20 to $30 a day per container, and that's just for thirty containers unloaded from just one ship," she added.

When ACCEPT came on line, Customs anticipated slight delays in the processing of documentation. An original estimate of two days was made with the understanding that when the program was fully operational and "had all the bugs worked out," brokers could expect their documentation to be in and out within four hours.

However, since the program was implemented, the Los Angeles Steamship Association, which represents approximately sixty steamship agents and operators that use the ports of Los Angeles and Long Beach, has stated that the delivery of cargo has been cut by 40 percent. That figure includes the delay of perishable cargoes that are frozen or refrigerated.

A top level executive of a large electronics manufacturer located south of Los Angeles expressed equal concern.

"Our position as a manufacturer is being deeply effected because we rely so heavily on spare parts that come in from the Far East. That puts us in a really vulnerable spot. There's a chronic shortage of spare parts worldwide anyway, and to have our shipments delayed because of what I feel are avoidable procedural problems compounds our burden enormously," he argues.

"There have actually been a couple of cases where the documentation accompanying several of our shipments has been shifted from one ACCEPT site to another with no one being told about it. That really messes things up because a messenger will have to chase around from one site to another with the paperwork, trying to find out 'who's on first'."

At one point, the ACCEPT site at the World Trade Center actually ceased accepting documentation because the mere handful of personnel there was unable to handle the deluge of paperwork.

According to one source, Customs completely misjudged the number of entries to be processed and filed at the World Trade Center site and left the office understaffed even though four of the largest brokers in Los Angeles (L.E. Coppersmith & Co.; Cal-Asia International; Norman Krieger, CHB; and the James G. Wiley Company) are located within blocks of the World Trade Center.

The source added that all of the documentation at the World Trade Center ACCEPT site "was just bundled up and sent down to the customhouse on Terminal Island."

"I think it goes without saying that any new system is bound to have its problems," observes Colon. "There are procedural changes that need to be made that we really have no control over and, to a certain degree, things would be going much smoother for some importers and brokers if they had taken advantage of the meetings we (Customs) held to explain the system."

The meetings Colon alluded to were held in the months preceding the start-up of the ACCEPT program at locations in the Los Angeles Customs District.

According to Colon, advance notice for the meetings was made through various trade organizations and more than 1000 individuals attended the instructional seminars. "Even so," Colon added, "there were still a large number of brokers and importers who just didn't attend."

Arthur Litman is president of Castelazo & Associates, one of the largest customhouse brokers in Los Angeles, and is a member of the customs committee of the National Customs Brokers and Forwarders Association of America.

He has spent considerable time over the last year analyzing input from brokers, importers and Customs regarding the ACCEPT program and has discussed the implementation of the program with Customs officials in Washington.

"The problem in the Los Angeles District is incredibly simple," he says. "There just isn't enough trained clerical help to handle the tremendous load of documentation that the program generates. Customs has trained inspectors doing the work that should be done by entry clerks and computer operators. The ports of Los Angeles and Long

(Continued on page 44)

ACCEPT Unacceptable?

(Continued from page 38)

Beach are woefully short of Customs inspectors as it is, and to burden them with the additional job of actually entering the documentation is just not a good idea."

Several months ago, Litman related, a delegation of customhouse brokers operating in the Los Angeles District suggested to Customs that, rather than having only five sites for the entire District where information could be entered into the ACCEPT computer system, each dock or container yard be equipped with a terminal "to at least cut down on the legwork involved in moving the paperwork all over the place."

The recommendation was turned down, according to Litman, because of "a lack of funding" from Washington.

"I really feel that the district headquarters here is doing all it can with what it has, but for some reason, the decision was made to put the ACCEPT program into effect here without the adequate manpower needed to do the job," he added.

That feeling is echoed by John Peterson, president of Wayne Withrow & Company, a large, San Pedro-based customhouse broker and president of the Los Angeles Customs and Freight Brokers Association.

"This is a real touchy subject with the Los Angeles District and it's really not their fault. The decisions regarding staffing are made back in Washington and those people are sometimes so far removed from what's going on out here that they really have no conception of what the southern California international trade community needs," Peterson commented.

"Last year," he continued, "the Los Angeles/Long Beach harbor system had almost 700,000 formal entries processed by only 100 Customs inspectors. New York seaport had about the same number of entries handled by almost 400 inspectors. The galling thing is that New York just got 75 more inspectors and the L.A. District hasn't had an increase in manpower in almost 20 years."

He added that, as recently as mid-October, Los Angeles area brokers were told that no additional inspectors would be allocated to the Los Angeles Customs District, even though the ACCEPT program was expected to heavily strain the existing Customs work force.

What about additional clerical help to staff the five ACCEPT sites and operate the computer system?

At a meeting of the LACFBA held in mid-November, just two weeks after the program went into effect, Alice Rigdon, director of the Los Angeles Customs District, stated that the hiring of sixteen computer clerks that had been proposed before November 5 had to be shelved because of "a lack of budget funding."

The Customs Service, like any other U.S. government agency, is funded through revenues collected by the federal government.

"You'd think the fastest growing port system in the entire country would be treated with a little more creative thinking," says Peterson. "It's almost as if they (Customs in Washington) think we're still fighting Indians out here."

The growth that Peterson refers to is truly phenomenal.

The U.S. Customs Service last year collected more than $2 billion in revenue from the imports that cascaded through the port system of southern California from all over the world, especially the Far East. That figure put Los Angeles/Long Beach on an unchallenged par with the traditional leader of the pack, the giant Port Authority of New York/New Jersey.

Port expansion projects and the resultant international trade growth in the greater Los Angeles basin make southern California, and its "door to the Pacific Basin," the most rapidly growing trade area in the nation. The trade generated by the ports of Long Beach and Los Angeles add up to a combined total that far outpaces all of the other ports of the U.S. west coast combined.

One suggested solution to the problem is the possible transfer of personnel from Customs districts with less traffic to the beleagured Los Angeles/Long Beach area.

Has that suggestion been made to Customs?

"It certainly has," commented one informed high level source at a major Los Angeles aerospace concern who wished not to be identified.

"This is an intensely political solution," he stated. "The people in Customs here won't say anything to the people back in Washington that will make them look as if they can't handle the work with what they've got."

That means, he continued, that "nobody is going to say anything that might compromise their position. There isn't a Customs district in the country that would allow inspectors to be taken away from their areas and reassigned. There are Customs districts that have worked themselves into a pretty nice state of comfortability. One district may have two or three times the number of inspectors and clerical staff that it really needs and everybody is happy because all the documentation is processed swiftly and efficiently."

"Politics really does play a big part in what Customs can and can't do," he added. "I personally know of a Customs import specialist that was slated to be reassigned to Scottsdale, Arizona, from her spot in Phoenix. Her move was part of a proposed plan to consolidate the responsibilities of specialists in certain commodity lines."

"Motorola in Phoenix got wind of the plan and was really upset because the specialist to be transferred handled their paperwork quickly and the company didn't want to have to work with another person or have its paperwork shuffled in far-off Scottsdale."

"The company contacted its Washington lobbyist who had a talk with Arizona Senator Dennis DeConcini. The Senator happens to sit on the committee that plays a crucial role in approving and amending the Customs Service's annual budget."

"Needless to say," he concluded, "the specialist stayed in Phoenix."

The bottom line is that "Customs has been put into the position of 'either it's going to work or it's going to work' here in Los Angeles," summed up Litman of Castelazo & Associates. "That kind of attitude is very hard to live with."

With the hiring freeze now affecting Customs it seems likely that the Los Angeles Customs District will have to make do with the number of inspectors it currently has, and that importers and customhouse brokers will have to, at least for the time being, ride out the storm that has clouded over them.

At least, that is, until Washington deems it worthwhile to educate itself on the needs of the international business community in the Los Angeles area. ■

Importing

A Crush at Customs

Badly positioned manpower holds up intermodal shipments 8 to 10 days

In newspapers throughout the Ohio area recently, there ran a correction to an advertisement run by the Sears, Roebuck and Company. Nothing much was wrong with the ad that ran, except that the merchandise wasn't available. Forgive us, please.

The manager of a chain store in Dallas late this summer had to wrestle a gun away from a man who had demanded to pick up a barbeque – it was a month late, and the man – who had gone down to the store on three previous occasions – had run out of patience.

At a meeting of the Western Traffic Conference in Los Angeles, a group of shippers suddenly became ugly when the conversation turned to the U.S. Customs Service.

So what do these three items have in common? The U.S. Customs Service.

In the past year, import orders have grown so strong that the government agency's work force has been strained beyond reasonable limits to get the job done and process the containers out of the various ports.

What used to take four to five working days now takes twice that amount of time. That is, getting the merchandise on the way to the consignee.

And so what does this mean? Well, if you're in charge of a department store, it can mean a fresh case of ulcers or worse.

With the Christmas season shipping season just finished, retailers around the nation are reporting that the crunch has been so bad that it will reflect in yet-to-be-released fourth quarter sales figures.

"You have to understand," explains a Montgomery Ward advertising and marketing man, "the entire process was thought through many months ago and then is changed, but only in a small way as the months go by. Making this decision costs millions of dollars. We have to talk to our buyers in other countries, make orders and then figure out how to get the goods here and properly market them so they'll move. And don't forget, it took us a lot of time and money to figure out what we were going to order."

With this tried and true retailing scheme in place, you'd think everything would work out just fine. It usually does.

But with a crunch at West Coast ports, the merchandise sits. And sits. And still sits.

Like the old domino theory, this version really works. Because the consignees call the brokers, the brokers call Customs and, well ... the sit continues.

On top of this, the ocean container carriers, ports, railroads and truckers, then find themselves with a horrible backlog and a hopeless logistical problem.

From Customs' standpoint, everything that can be done is being done. S.O.P.

Customs likes to point out that it is operating a lean machine, saving U.S. taxpayers millions of dollars. And it is discovering the computer.

Yes, the computer. The catch-all and end-all to all problems.

The ACCEPT program, now being phased into most ports around the country --Automated Cargo Clearance Entry Processing – is the wave of the future. And Customs officials say this will clean up the mess.

One West Coast port man, not wanting to be named, simply says, "How do you inspect the inside of a container with a computer?"

You don't, of course. And therein lies the problem. Customs is apparently trying to put out a forest fire with a bucket of water.

Consider this: Figures just released for Fiscal Year 1984 show that containers processed for the Los Angeles/Long Beach area were 701,844. Containers processed in the New York/New Jersey area were 672,951. In Los Angeles, a total of 295 inspectors handle the load. While New York/New Jersey, which recently added 100 inspectors, now has 850.

"It's a clear case of overkill," comments one disgruntled port executive. Port officials don't like to talk on the record about the Customs Service. The situation can become sticky.

So why doesn't Customs hire more inspectors? Or simply transfer some to handle the growing problem?

No one at Customs is entirely certain why this hasn't been done. And no one appears too anxious to discuss the matter.

But before you draw any conclusions, you must consider that during last year's federal budget hearings, Customs rejected a House plan to increase Customs' allocation by $40 million.

Armed with this information, a reporter attempted to find some answers. The answers were not easy to find and even harder to simply ask the question.

Calls to headquarters in Washington, D.C., produced a constant stream of return calls from assistants who either referred the matter to another assistant or said that they'd look into the matter. Calls to top-level bureaucrats produced nothing. Not even a return call.

And some of the assistants said the problem was purely a regional matter to be handled on the West Coast. When it was pointed out that more than half of all the cargo arriving at West Coast ports was for national distribution, such thoughts were received with a shrug.

Calls to Los Angeles offices brought less results than the calls to Washington. On one day in November, 18 calls were placed to Customs' main L.A. number, (213) 688-5900. Of those calls, the line was busy 17 times. The one call that went through resulted in a referral to another number.

From an importer's point of view,

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things could not get much worse. Since the problem is beginning to cost them money, Washington can soon expect to see a unified group of retailers marching angrily into Congress, screaming for changes in the operation.

At least six major trade groups in the Los Angeles/Long Beach area are on the verge of doing something rather dramatic to emphasize their point.

"They've simply got to increase staffing," says Jack Aden, manager of traffic and transfer for the Broadway Department Stores, part of the Carter, Hawley, Hale group.

Aden, who moves his freight – about 75 40-foot boxes a month – throughout stores in the Southern California area, says the conditions are miserable and getting worse.

As head of the Western Traffic Conference, Aden says that a recent meeting showed unanimous support by its membership to change the status quo.

If Aden's headaches are severe, then his counterparts at Sears, Penny's, Ward's and K-Mart, must be critical. Those chains move from 300 to 500 40-foot boxes through Los Angeles/Long Beach area monthly and most of the freight has to face yet another move to outlets in various parts of the country.

There has been talk of diverting cargo from the crowded ports of Los Angeles and Long Beach. But the problem is, where will it go?

All of the ports along the West Coast, with the exception of the San Francisco/Oakland area, have the same problem.

For example, while 231,497 containers were processed through the Seattle/Tacoma area in Fiscal Year 1984, 210,309 moved through S.F./Oakland during the same period.

Yet Seattle has fewer inspectors than does San Francisco.

"I think this is the first time ever that more containers were processed in an area outside of New York," says Ted Rausch, head of Ted Rausch & Co., a San Francisco-based freight forwarder and broker. "Someone in Washington had better wake up."

The trend is one that has been growing and shouldn't have caught anyone by surprise. It's only been the recent explosion of imports that has broken the back of Customs in Los Angeles.

As the Broadway's Aden points out, import volume has increased by 150 percent in the last year. And that would strain anyone.

The most interesting aspect of this development, however, is that while it caught Customs flat-footed, private industry carriers saw the avalanche coming and added staff and equipment. To the frustration of the carriers, however, the job has remained a difficult one because everything has become an emergency move.

"When everything's a priority, then something has to give," said one steamship man, looking at his activity board. "I hope it's not me."

He looked around, hoping no one would notice, and said almost conspiratorily, "But you'd better write to your congressman or President Reagan. These guys at Customs don't give a damn. And besides, they can make life more rough than it already is."

And that closes another chapter on the happy life of getting along with your government agency. ■

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A new world-class barge has entered the Caribbean trade. The 730 Stretch. At 730 feet long and 100 feet wide, the new triple-deck vessel has a capacity of 512 trailers in all sizes, including 48-ft. units. It is the largest RO/RO barge in the world.

Trailer Marine Transport Corporation is converting five 400-ft.-long barges to the new 730-ft. length by the addition of 330-ft. tri-dec midbody sections. All five will be in TMT servic to Puerto Rico by the end of the year.

Besides the new stretch barges, TMT utilize four 580-ft. triple-deck barges – now the world second largest RO/RO barges.

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Attachment D

PORT OF LONG BEACH INBOUND CARGO

1980-1990

	Total Inbound*	Total General Cargo (Inbound)
1979-80	23,781,673 (MRT)**	7,659,552 (MRT)
1980-81	24,532,875 (MRT)	8,754,955 (MRT)
1981-82	28,484,304 (MRT)	10,676,996 (MRT)
1982-83	28,034,225 (MRT)	11,018,954 (MRT)
1983-84	33,230,169 (MRT)	15,825,359 (MRT)
est. 1984-85	34.3 - 35.5	16.4 - 17.7
est. 1985-86	36.6 - 37.7	18.2 - 19.5
est. 1986-87	38.8 - 39.9	20.1 - 21.4
est. 1987-88	41.1 - 42.2	21.9 - 23.3
est. 1988-89	43.3 - 44.4	23.8 - 25.1
est. 1989-90	45.5 - 46.7	25.7 - 27.0

* Includes bulk, break bulk, liquid bulk and general/containerized cargo.

** MRT = Metric Revenue Ton - normally 2204.6 pounds or one cubic meter, whichever provides the greater number in each shipment.

Attachment F

U.S. Customs Collections Comparison

Total U.S. Customs Collections for Fiscal 1984 equaled $12,541,399,696.

The Los Angeles Customs District Collections equaled $2,170,476,947 or 17% of U.S. Collections.

The U.S. Customs Service presently has approximately 14,000 total staff. The Los Angeles District has 554 or 4%.

Four percent of the U.S. Customs Service staff, the Los Angeles Customs District, is directly responsible for collecting 17% of the revenue for the Service.

In comparison, the New York/Newark Seaports District employs a staff of 1,085 or 7.8% of the total Customs Service. With collections for FY 1984 equaling $1,795,525,326, this District's percentage of total U.S. Customs Service Collections equals 14.3%.

7.8% of the U.S. Customs staff, the New York/Newark Seaports District (not including Regional enforcement offices assigned to the District), is directly responsible for collecting 14.3% of the revenue for the service.

Although this may indicate certain efficiencies exist in the Los Angeles District, this thought should be dispelled based on the logged complaints from importers reflecting the "up to 10 and 20 day delay in clearing cargo from the port."

February 14, 1984

My name is Robert Kleist. I am Executive Vice President of Evergreen Marine Corp. of Calif. We are owners and operators of a fleet of containerships in worldwide operations and operate our own terminal at the Port of Los Angeles.

I am here to speak on behalf of the Los Angeles Steamship Association which I serve as a Director and Secretary-Treasurer. Our member companies provide services to and from all parts of the world. I have also been asked to speak on behalf of the Terminal Operators Association which shares the views of the Steamship Association.

In a survey of our members we have found very little evidence of delays in vessel entry and clearance procedures which could be attributable to unavailability of U.S. Customs personnel when required. As a matter of fact our members feel that the District Director has done an exceptional job of providing these needed services with the shortages existing in personnel within the Los Angeles Customs District. There have likewise been few delays noted in clearing cargo from the marine terminals - when delays do occur they are most often associated with quota merchandise which requires special attention from U.S. Customs.

We do, however, hear frequent complaints from our customers - importers and exporters, customhouse brokers and freight forwarders - and from our connecting land carriers who deal directly with U.S. Customs and are face to face with the day to day activities at the points where delays and inconvenience resulting in unnecessary expense are encountered.

These are the people who are directly affected by personnel shortages, which have resulted, for example, in the downtown Los Angeles location becoming virtually helpless.

We do believe that the record speaks for itself. The Los Angeles Customs District consisting of the Ports of Los Angeles and Long Beach and the Los Angeles International Airport has grown at the rate of between twenty and twenty-five percent per year for the past decade and none of us in the steamship business anticipate any drastic reduction in this rate of growth in the near future. Harbor entries through the District amounted to 264,760 in 1984, compared with 214,417 in 1983 - growth of 23% . Collections have demonstrated a corresponding growth from 1,057,671,098 in 1983 to 1,509,814,857 in 1984 which equals 42% growth.

During this period of immense growth in Customs related activity in the District, with a corresponding growth in demand for personnel to perform the required and necessary duties, total personnel assigned to the District has actually been reduced. This fact is very difficult to comprehend and accept when one considers that the New York District - and others - with fewer entries and almost negative growth rates have had increases in Customs personnel. One can only conclude that personnel assignments are based upon political considerations rather than documented and demonstrated needs. This is why we in the Steamship Industry greatly appreciate the time that you, as our elected representatives, have taken to make this field trip and to see first-hand the situation as it actually exists. The ports of Los Angeles and Long Beach have spent many hundreds of millions of dollars to provide the facilities and services necessary to serve our international commerce. All of the funds for this development - with the exception of a relatively small proportion for dredging supplied by the federal government - derive out of revenues earned by the ports. Many thousands of jobs in this harbor area are directly and totally dependant upon port activities and further growth will be impeded if the U.S. Customs service does not have the personnel needed to keep up with that growth rate.

As I have mentioned at the outset we have not experienced adverse impacts of personnel shortages. We do, however, attribute this in large measure to the fact that our ships are much larger than they were in the past and the physical ability of the terminals - using the latest technological advances in cranes and other handling equipment make it possible to greatly reduce the number of vessel calls while increasing the tonnage handled. We urge you to give very serious consideration to the impact of this seriously deficient personnel situation which affects the economy of all of Southern California. Thank you for the opportunity to meet and speak with you.

THE LOS ANGELES CUSTOMS AND FREIGHT BROKERS ASSOCIATION, INC.

333 S. Flower St.
PLEASE REPLY TO Los Angeles CA 90071

STATEMENT ON BEHALF OF
THE LOS ANGELES CUSTOMS & FREIGHT BROKERS ASSN., INC.

February 14, 1985

The Los Angeles Customs and Freight Brokers Association was incorporated in 1949. It has become increasingly active during the past decade, in a greater effort to protect the interests of its members. Today, there are 121 Customs Brokers/Freight Forwarders maintaining active membership in the association.

During the past decade, it has been our pleasure to watch the volume of import traffic increase steadily. Formal and informal entries filed at the harbor are 254% of 1975 levels, and collections at the harbor are 430% of 1975 activity.

During the past decade, it has also been our displeasure to see (especially during the past four years) a decreasing staff. The number of inspectors, commodity specialists and support clerical personnel has declined 17% during the period when the increases in volume were greatest. Customs' efforts at computerization to augment personnel have been disappointing, at best; programs in place have not kept pace with import traffic, and programs on the horizon can not deal with existing traffic, let alone further increases, because they will not be in place for years.

We want to make it clear that the staffing shortage in Los Angeles and Long Beach harbors can not be attributed to the District. Perhaps it can be said that aggressive requests for additional personnel to adequately fulfill its mission have not been voiced, but this is probably related to the usual official reaction by Customs Headquarters to such demands -- threatened reassignment to an unpleasant area.

We have informed Customs Headquarters and members of Congress many times of the staffing shortage in Los Angeles. We have provided statistics which show that Los Angeles has consistently received less support from Headquarters than other ports in the United States. Charts have been prepared to document this, and among the interesting statistics are:

1. The seaport of New York has five times as many inspectors as the seaport of Los Angeles/Long Beach, yet handles only double the formal entry workload.

2. The seaport of San Francisco/Oakland has three fourths as many inspectors as the seaport of Los Angeles/Long Beach, yet handles only one third the formal entry workload.

3. In the past five years alone, formal entries filed at Los Angeles/Long Beach harbor have increased 47% and collections have increased 87%, with no comparative increase in staff.

It should be noted that there are no In Bond entries included in the aforementioned figures, a tactic used by some other ports; further, the figures refer to the harbor, not the airport, and are compared to other harbors.

We have mentioned that Customs' computerization efforts have been disappointing; ACCEPT is a good example. This association cautiously agreed to support the program, with the understanding that the Los Angeles District would be able to hire data input clerks to operate the terminals. All of those positions were cancelled, resulting in the use of Inspectors to operate the terminals. This negated one of the major benefits of the program (freeing up Inspector manpower to do more and better examinations) and forced Customs into using high salary level inspectors to perform low salary level tasks. Again, this course of action was forced on the Los Angeles District.

It is ironic that in the trade community's support of ACCEPT, the ports of Los Angeles and Long Beach paid for all of the computer terminals, being under the impression that data input clerks would be hired to run them. All of us have the feeling that Customs Headquarters pulled the rug from under our feet, as well as those of the local district.

Another major area of concern is quota entry processing. Los Angeles is a major quota entry port as a result of its geography -- most vessels call here first, and many quotas apply to Far East countries. By discharging quota goods in Los Angeles, importers can enter those goods into the quota system more quickly. However, because of the inequitable manpower allocation to the Los Angeles district, sufficient clerks to handle the quota entry workload can not be hired.

We know of instances where the Los Angeles District has simply been instructed to perform a task within a given number of hours. Such instructions are pointless, when the obvious statistical need for additional manpower is considered. Los Angeles is already processing more entries and more money per inspector and commodity specialist than other seaports in the United States. The import activity in Los Angeles has increased 28% in the first quarter of fiscal 1985, but we are being faced with yet another cut in manpower.

Customs Headquarters has not been responsive to our written communication, nor to that of any other group, concerning staffing. It has consistenly allowed the steady increase in activity to continue with no comparative increase in the District's resources to handle the load. It continues to show unsatisfactory interest in one of the biggest districts in Customs, so we in the Customs Broker industry earnestly ask for help from our elected representatives in Congress. We ask for this help in these areas:

1. Formal Congressional hearings should be held by the entire Southern California Congressional delegation in Los Angeles, to formally establish the validity of our problem and our statistics.

2. An adjustment in the number of trade related Customs personnel should be made

to bring this district up to a level comparable to other districts.

3. Annual review procedures should be established by Congress to direct Customs to insure that the balance of manpower stays balanced nationwide.

It is not our intent to sound like alarmists simply for shock value. The situation happens to be truly alarming. The continued failure by Customs Headquarters to respond to the shortage in personnel in this district has not only had a deleterious effect on the importing community, it has created a morale problem among inspectors and operations personnel. They have been assigned an impossible mission, without effective support for action.

EXPEDITE

HARBOR HAULING
LOCAL TRUCKING
DISTRIBUTION

(213) 685 7340
(213) 537 3390

February 14, 1985

COMMENTS CONCERNING UNDERSTAFFING BY U.S.CUSTOMS IN THE PORT DISTRICT OF LOS ANGELES/LONG BEACH HARBORS -

Good afternoon gentlemen. My name is John Harrison and I'm here as a spokesman for the California Trucking Association, and also as a spokesman for over 2000 owner operator truckers who derive their livelihood by transporting import containerized cargo here in the Southern California Area. The ability of the trucking companies (represented by the C.T.A.) and the truckers (the owner/operator drivers who contract with these companies) to stay in business and operate profitably, is directly related to the ability of the steamship companies and terminal operators to deliver inbound import containerized cargo to them in a timely manner.

Certainly there are considerations for delays in the delivery of containerized cargo that are a function of the private sector. These considerations are being addressed on a continuing basis, by all interested parties of our local international community;i.e.: steamship companies, terminal operators, rail and truck carriers, representatives from both the Port of Los Angeles & the Port of Long Beach, the L.A.Customhouse Brokers Association, as well as representatives from the U.S.Customs District & Regional offices.

In focusing on the delays in release and delivery of cargo directly attributable to understaffing of U.S.Customs here in the District, it becomes quite apparent that the trucker is adversely effected in three specific areas. These are:

(1) Lack of internal, commodity-specialist staff to provide adequate service to the importer/custombroker in those instances where S.I.D., quota/restricted and warehouse entries are required. This results in tremendous delays in the release of cargo and requires the trucker to advance demurrage (storage) charges on behalf of the importer before pickup of cargo can be effected.

P. O. BOX 58028 · LOS ANGELES. CA. 90058

Although these additional demurrage charges are not the fault of the trucker, he is usually singled out as the "guilty" party because he is the last runner in the relay that results in product being removed from the dock and delivered to the customer. In order to maintain a continuity of clientele, therefore, the trucker must advance these demurrage charges, usually an amount in excess of what he is charging for the transportation of the goods, and then explain to the client that "there is nothing you can do about the demurrage charges, because they were caused by the delay in U.S.Customs processing of documentation, because U.S.Customs is understaffed, and there is no way U.S.Customs will ever pay a demurrage billing."

In the thirty day period from November 15 through December 15, 1984, Expedite Truck Lines advanced over $20,000.00 in demurrage charges that were a direct result of understaffing here in this District. We are only one company of over forty companies of similar size and service. This fact would lead me to believe that collectively, the importers using the Ports of Los Angeles/Long Beach paid in excess of $800,000.00 for the delivery of their product during this time period.

(2) The removal of the U.S.Customs Inspectors, on a full time basis, from the harbor terminal facilities, while at the same time implementing a program whose goal is to increase visual inspection of imported cargoes, is theoretically contradictory, and realistically an additional cost that is passed on to the importer, and ultimately, the consumer. By placing U.S.Customs Inspectors at the terminals on a limited basis for viewing of selected shipments, the trucker must, likewise, place the necessary equipment into the terminal several hours prior to the Inspector's arrival. Only in this manner of pre-positioning the container for product viewing can the trucker guarantee with any reliability the availability of the cargo for viewing. This results in an additional charge to the importer as it takes a trucker out of his normal pickup scenario;i.e.: the trucker wants to make sure he's early enough to have the container/cargo ready for viewing during that limited viewing period when an Inspector is at the terminal, and we consequently end up billing for waiting time. The other side of that same coin is that if the trucker misses the Inspector's limited viewing period that day, and it is the last free day (demurrage/storage charges will begin the following working day) the trucker loses any profit he may have had in movement of the cargo because he is now the liable party for the demurrage charges.

(3) The restrictions recently placed on the intense examination of containerized cargo at designated facilities;i.e.: harbor terminal break-bulk facilities, container freight stations (C.F.S.), and Customs bonded warehouses, imposes an additional cost on the importer, as well as placing the majority of truckers providing service in the harbor area at jeopardy. Clearly, that additional manpower and transportation necessary to effect an intense examination at an off-dock location is an additional cost the importer will, more than likely, pass on to the consumer. The fact that the physical ability to provide this service has, so far, been placed with the container freight stations puts the majority of harbor truckers at a disadvantage. Operators of centralized off-dock de-vanning stations retain their own trucks to provide for movement of containerized import cargo from the harbor to their facility. Operationally, this C.F.S. operator can offer a lower cost for the intense examination than can the trucker who must use a third party facility;i.e.: Customs bonded warehouse. We feel this inequity provides unfair advantage to a few, at the expense of the majority, by allowing a government program to provide a cost advantage in the marketplace. If U.S.Customs is sincerely interested in intensely examining import cargoes, they would further restrict the parameters of their operation to one centralized location. This would take full advantage of U.S. Customs personnel assigned to the intense examination function by eliminating unnecessary travel between the various C.F.S. facilities. In this manner, the work performed toward intense examination would be at the expense of the government, on a lowest bidder contractual basis. If the intense examination program is as successful as anticipated, the additional revenues that it generates would carry the contractual work performed by the private sector. If the intense examination program does not provide these anticipated additional revenues, then the merit of the program should be questioned.

In closing, we clearly recognize that the U.S.Customs Staff here at the District of Los Angeles/Long Beach is in need of additional personnel if they are to carry out their mission successfully;i.e.: to protect the revenues of the United States. We hope that you gentlemen will assist us in this effort. Thank you.

John A. Harrison

Sears
Merchandise Group

National Headquarters
SEARS TOWER
CHICAGO ILLINOIS 60684

February 12, 1985

Commissioner of Customs
U.S. CUSTOMS SERVICE
1301 Constitutional Avenue, NW
Washington, DC 20229

Dear Mr. Commissioner:

We welcome this opportunity to provide some input on the concerns Sears, along with other affected parties in the community have regarding the efficient and timely movement of cargo at the Ports of Long Beach/Los Angeles.

We must commend the service in its aggressive committment of resources to solving the many operational bottlenecks the public and service face day to day, by implementation of the ACCEPT and ABI and myriad of other programs. We agree with this approach, as it not only addresses resource constraints, but also the swift and prompt movement of cargo within the parameters established by U.S. Customs.

Within this overall scheme we do however find certain inconsistencies in the timeliness of cargo clearance between various U.S. Customs ports. For example, our experience indicates that it takes anywhere from 2 to 20 days to clear cargo at Los Angeles with an average of 7 to 10 working days, compared to an average of 1 to 2 working days at the ports of New Orleans, Philadelphia and Boston. The significance here is not so much on the numbers but the tremendous disparities between ports. Specific facts and figures will be supplied upon request.

As importers who work directly with the Staff of U.S. Customs at Los Angeles, and also through our brokers, A. J. Fritz & Co., we find a strong level of committment by U.S. Customs personnel at this port.

To understand , therefore, the reasons for such delays, we raise the following questions:

1) Is the allocation of Customs resources, Los Angeles versus other ports of similar volume, equitable?

2) Is there any significant degree of difference between the mix of cargo, Los Angeles versus other ports of similar volume?

A SEARS ROEBUCK COMPANY

3) Is there a logistical problem in moving documents from one point to another to obtain final release of cargo in a manner consistent with such other ports?

We endorse the facts and figures being provided here today by the officials of the Port of Long Beach, the brokerage community and others, to shed light on some of the issues raised above.

It is our fervent hope that the service recognizes this tremendous cost burden on the importing community at Los Angeles, and addresses it in a manner consistent with the levels of operation at other similar United States ports.

We would be more than happy to work with you directly, and through our brokers, to help improve upon this situation.

Sincerely,

SEARS, ROEBUCK AND CO.

Subash Agarwal
Director - Customs
Department 733X
BSC i9-45

SA:ls

distribution services ltd.

February 14, 1985

We would like to outline our position relative to (1) the lack of manpower in the Custom's District and (2) the location of the Outside Division of the U. S. Custom's Office.

(1) DISTRIBUTION SERVICES LTD is a freight consolidation, non-vessel operating common carrier and distribution and forwarding company, with main offices and facilities located in South Gate, Calif., situated between the port of Long Beach and downtown Los Angeles. DSL is the largest single importer of record, not only on the West Coast, but in the entire United States. As such, it is not only in our interest but certainly in our customers' interest to request those representatives of government, whose responsibility it is to see that adequate manpower is available to efficiently process Custom's entries and inspections.

We have maintained an excellent relationship with the Custom's representatives in our district and sincerely appreciate their efforts under these adverse conditions.

However, the situation has aggravated to the point where the delays in the timely processing of entries has created unneccessary expense for the importer and ultimately the consumer. The ports, the shipping lines, and ourselves cannot stand idle while the delays of entry processing cause congestion at the piers and excessive detention and demurrage of containers.

(2) In this period of fiscal restraint, we believe that our proposal to the local U. S. Custom's Director, offered the most economical as well as practical solution to the location of the office the the Outside Customs Division. We had several meetings and surveys had commenced to coordinate the move to our facility. This was over-ruled at the last minutes.

A. DSL has offered a nominal rent (say $1.00) per annum) to U. S. Customs.

B. Cargo moving through our facility represents a very high proportion of total entries through the Division.

MAILING ADDRESS: P.O. Box 5328 • Carson, CA 90749
GEN. OFF./WHSE: 2848 E. 208th St. • Long Beach, CA 90810 • (213) 518-5300 • Telex 664833 • Answerback DSL LGB • Telecopier (213) 537-4809
TERMINAL: 3011 Firestone Pl. • Southgate, CA 90280 • (213) 563-7761 • Telex 756712 • Answerback DSL So Gate • Telecopier (213) 567-1096

C. The location of the Outside Division should be determined by viewin the entire import community requirements, not just the downtown city of Los Angeles. DSL's location, free of downtown traffic congestion, parking fees and time consuming delays for messenger services, should be considered. DSL is conveniently located only minutes away from the major rail yards and the other major off-dock CFS stations.

D. The increase in team exams provides another excellent reason for using DSL. No other facility is located so convenient for importers whose goods must be examined. Examination could be handled faster and in larger volume at our facility thus providing the most efficient utilization of the manpower available. The mobile exam team could also work from our facility.

DSL has made a substantial contribution to the growth of the Ports of Long Beach and Los Angeles. Cargo that previously moved over the Port of Seattle or direct to the East Coast now moves through our facility. This tonnage represents one of the factors in the overall growth of the ports in the past three years. If there are continued delays within the Ports of Long Beach and Los Angeles this tonnage may be forced back to Seattle and/or other West Coast ports. This would have a substantial negative impact on the employment in our industry. We now ask your assistance to insure that a Custom's manpower plan is provided, equitable with other major U.S. ports.

Sincerely,

DISTRIBUTION SERVICES LTD

Philip V. Clarke, Sr.
Managing Director

PVCS/cay

MAILING ADDRESS: P.O. Box 5328 • Carson, CA 90749
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STATEMENT OF J.C. PENNEY CO.

Congressman Roybal, Congressman Anderson and guests, I'm Steve Goldberg, attorney for J.C. Penney Co., With me today are C.T. Liang, our International Buying Coordinator and Rick Rocco, who works for our broker F.W. Myers.

J.C, Penney Co., has experienced a good working relationship with U.S. Customs over many years. We have business with virtually every major port in the U.S. The custom's personnel of the port of Los Angeles have made genuine and sincere efforts to timely process shipments for entry and release from customs custody. Nevertheless, there have been major delays in releasing our merchandise from customs.

The great increase in import traffic entering the port of Los Angeles in the last few years coupled with recent regulatory controls and the loss of many experienced customs personnel, w/o adequate replacements, and no actual increases in personnel, have created a crises situation for importers of foreign merchandise.

The standard for U.S. Customs to process a quota entry should be about six hours.

In reality all the other ports throughout the nation ------- and J.C. Penney transacts business with virtually all of them ------- process quota entries within two to three days.

Our greatest concern with the Port of Los Angeles is the massive time delays that we are experiencing in the processing of quota entries. The average processing for J.C. Penney quota entries in Los Angeles in January was 9 days. Some of these entries took 12 days from the date of submission to the date of clearance on the delivery authorization document. Additional delays of 6 to 7 days are experienced in quota entries involving an initial reject.

Let me give you an example of a recent problem we encountered. A quota entry submitted on December 31, 1984 was rejected on January 6, 1985. It was resubmitted on January 7, 1985 and, apparently the entry was lost. A duplicate entry was submited on January 15, 1985 and was finally cleared on January 22, 1985 ----- 25 days from the date the merchandise arrived in the port.

There are two major factors which contribute to the delay problem:

1. The shortage of customs personnel to timely and properly process documentation.
2. The quota procedure involving the processing of the the entry through several different departments: Quota desk, C.S.T., operations for computer input, cashier, brokers box, and finally to the A.C.C.E.P.T. sit..

What do these delays mean to J.C. Penney?

1. Additional outright costs in the form of unnecessary demurrage.
2. Cancellation of orders and loss of sales and unavailability of advertised merchandise. Virtually all of our imported merchandise is seasonal apparrel. There are 90 days in each season. If we lose 20 days because of Customs delays, we have lost over one fifth of the season.

3. Additional costs of freight and warehouse handling on merchandise returned by the store to buyer because of untimely receipt as a result of customs clearance delays.

4. Finally, goods not received in time for the season are heavily marked down and sent back to the store as closeout merchandise.

We want to continue doing business with the Port of Los Angeles and we realize that the personnel are doing the best they can under difficult circumstances. We are asking that this crises situation at this port's custom's operations be resolved as quickly as possible by the federal government so that we can continue to do business here in a better and more efficient manner

Thank you.

LOS ANGELES/LONG BEACH CUSTOMS
STATEMENT
LEO F. MCKENNA

I AM LEO F. MCKENNA, DIRECTOR OF TRANSPORTATION FOR MONTGOMERY WARD, THE SIXTH LARGEST RETAIL CHAIN, WITH ANNUAL SALES OF 6.5 BILLION DOLLARS. I AM RESPONSIBLE FOR BOTH DOMESTIC AND INTERNATIONAL TRANSPORTATION OPERATIONS. I HAVE BEEN INVOLVED IN TRANSPORTATION FOR 27 YEARS.

PRIOR TO 1983 OUR COMPANY IMPORTS WERE LESS THAN 4% OF OUR MERCHANDISE PURCHASES. THIS VOLUME WAS BASICALLY HANDLED THROUGH THE PORTS OF OAKLAND, NEW YORK AND BALTIMORE. CONSOLIDATIONS AND CLOSINGS OF DISTRIBUTION FACILITIES TOGETHER WITH A MAJOR CHANGE IN THE HANDLING OF IMPORTS REQUIRED THE RELOCATION OF THIS ACTIVITY. IN ADDITION TO THESE MAJOR CHANGES OUR IMPORT VOLUME INCREASED TO A 15% LEVEL OF PURCHASES.

THE DECISION TO MOVE THE FAR EAST PORT-OF-ENTRY FROM OAKLAND TO LOS ANGELES/ LONG BEACH WAS BASED ON ECONOMICS, SERVICE, AND MERCHANDISE CONSUMPTION OF PRODUCT IN THE LOS ANGELES MARKET.

1. THE COMBINATION OF INTERNATIONAL WITH DOMESTIC PRODUCTS PROVIDES A REDUCED INLAND COST TO MOVE MERCHANDISE TO OUR 18 MAJOR DISTRIBUTION CENTERS THROUGHOUT THE UNITED STATES. (200 MILLION POUNDS IN 1984).
2. OCEAN SERVICE TO LOS ANGELES FROM HONG KONG, KOREA, JAPAN AND TAIWAN IS EXCELLENT. INLAND FREQUENCY TO OUR 18 DISTRIBUTION POINTS IS GREATLY IMPROVED BY THE DOMESTIC - INTERNATIONAL COMBINATION.

3. 15% OF OUR RETAIL VOLUME IS CONSUMED IN LOS ANGELES, SAN DIEGO AND PHOENIX. (36 OF THE 300 COMPANY STORES).

ALL OF THE SYSTEMS AND OPERATIONS SET TO HANDLE 8000 CONTAINERS ANNUALLY, HAVE WORKED WELL. HOWEVER, OUR BIGGEST DISAPPOINTMENT WAS THE INCREASE IN PORT CLEARANCE TIME - 6 DAYS FOR NON-QUOTA AND 12 DAYS FOR QUOTA.

THE EXTENDED PORT CLEARANCE TENDS NOT ONLY CAUSE PORT CONGESTION (UP TO 175 CONTAINERS IN LOS ANGELES/LONG BEACH TERMINALS), BUT MERCHANDISE DELAYS, AND TOTALLY UNACCEPTABLE PIER DETENTION ($550,000 IN 1984).

THE OCEAN CARRIERS AND PORTS RESPONDED TO OUR NEEDS, BUT CUSTOMS CLEARANCE DELAYS CONTINUE! WITH A CONTINUED STRONG DOLLAR OUR VOLUME OF IMPORT SHIPMENTS WILL REMAIN HIGH. WE NEED TO IMPROVE CUSTOMS CLEARANCE TIMES. ALTHOUGH LONG BEACH/LOS ANGELES ARE STILL OUR FIRST CHOICE, WE ARE NOW CONDUCTING A STUDY TO DETERMINE THE ECONOMIC FEASIBILITY OF MOVING TO OTHER PORT FACILITIES.

WE NEED MORE CUSTOMS INSPECTORS OR A MAJOR PRODUCTIVITY IMPROVEMENT.

LISTED BELOW ARE THREE EXAMPLES OF THE TYPE OF DELAYS WE HAVE ENCOUNTERED.

1. LEXA MAERSK
   CONTAINER # XTRU 4914779
   ENTRY SUBMITTED 2/1/85
   DAD RECEIVED 2/12/85
   (CUSTOMS REQUESTED SAMPLE)
   - 11 DAYS -

2. EVER LAUREL
   CONTAINER # EISU 103467
   ENTRY SUBMITTED 1/28/85
   DAD RECEIVED 2/12/85
   (CUSTOMS REQUESTED SAMPLE)
   - 14 DAYS -

3. MOSSEL EXPRESS
   CONTAINER # TOLU 2204392
   ENTRY SUBMITTED 2/4/85
   DAD RECEIVED 2/12/85
   - 8 DAYS -

HERE ARE SOME PROBLEMS IN THE LOS ANGELES CUSTOMS DISTRICT THAT HAVE BEEN IDENTIFIED BY OUR INTERNATIONAL TRANSPORTATION MANAGER:

1. QUOTA GOODS - ONLY FOUR (4) CLERKS ON THE QUOTA DESK. THIS CONTRIBUTED TO CLEARANCE DELAYS UP TO TWO WEEKS, AS WELL AS AN EXCESSIVE CONTAINER DEMURRAGE.

2. DELIVERY AUTHORIZATIONS - (DAD) A MAJOR TIME LAPSE BETWEEN THE ACCEPT SITE AND THE PIER.

3. ERRORS - ENTRIES THAT REQUIRE RESUBMISSION GET LOST IN THE SYSTEM. THIS HAPPENS FREQUENTLY. THE SYSTEM IS NOT ABLE TO COPE WITH EXCEPTIONS.

4. LOCATION OF INSPECTORS - CONSIGNEE SHOULD KNOW WHEN THE INSPECTOR IS AVAILABLE TO ALLOW PICK UP AND RELEASE IN PRESENCE OF AN INSPECTOR, IF NECESSARY. NEED LOCATION OF EXAM SITES.

IN CONCLUSION, WE BELIEVE THE ROOT OF MANY PROBLEMS AND DELAYS IS A SHORTAGE OF QUALIFIED STAFF IN THE LOS ANGELES CUSTOMS DISTRICT.

MONTGOMERY WARD HAS MADE A COMMITMENT TO LONG BEACH/LOS ANGELES. WE SUPPORT AN EFFORT TO IMPROVE PORT CLEARANCE TIMES. THESE IMPROVEMENTS ARE CRITICAL AS 80% OF OUR IMPORTS NOW MOVE THROUGH THE LOS ANGELES PORT-OF-ENTRY.

WE ARE ANXIOUS TO KNOW WHAT STEPS WILL BE TAKEN TO ADDRESS OUR CONCERN.

THANK YOU.

LUDWIG INDUSTRIES, INC.,
Brooklyn, NY, February 14, 1985.

Hon. EDOLPHUS TOWNS,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN TOWNS: Please vote to continue the Trade Adjustment Assistance program.

I am the President of a firm that received technical assistance (advice from management consultants) during 1981-1982 under the auspices of the Metropolitan New York Trade Adjustment Assistance Center. We did not receive a loan through the program. This advice helped us manage our business more professionally. Without Trade Adjustment Assistance, we probably would have gone out of business in early 1983.

Very truly yours,

PHILIP SCHWARTZ, *President.*

MAPLE TREE INC.,
New York, NY, February 20, 1985.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade, Washington, DC.

I am writing this letter to let it be known that the diagnostic study performed through Trade Adjustment Assistance helped identify problems in our operations that we were then able to address and correct in order to keep us competitive with the rising amount of imports. If we did not implement these recommendations, our company would not have been competitive and we would have been driven out of business. This of course would have resulted in the loss of 125 jobs and the corresponding tax revenue. In addition the location that we are in provides no other employment and these people would be chronically unemployed.

Sincerely and respectfully,

PETER H. KLIEGMAN, *President.*

NATIONAL ASSOCIATION OF DISPLAY INDUSTRIES,
New York, NY, February 13, 1985.

Hon. WILLIAM GREEN,
House of Representatives, Longworth House Office Building, Washington, DC.

MY DEAR MR. GREEN: I wish to extend my continued support for the Trade Adjustment Assistance Program. I understand your committee is once again considering whether or not to continue Trade Adjustment Assistance for F.Y.E. 1986. This is the only program that supports small and medium sized manufacturers such as the 251 companies, who are members of the National Association of Display Industries. Imports continue to destroy local manufacturing. In our association, certain products are now produced exclusively overseas. But with the help of Trade Adjustment Assistance, other parts of the industry are displaying renewed vigor . . .

With the help of the Metro New York Trade Adjustment Assistance Center, we conducted a comprehensive survey of the future direction of the visual merchandising industry. Where will the markets be? Who is or will be hurt by import? What products will continue to be American made? The results have been distributed to my membership.

Our very independence members have been brought together infocus groups to discuss common problems. We are working together as never before. Seminars, supported by the Rockefeller Brothers Fund, are addressing some of the issues raised by the survey. All this has resulted from a Trade Adjustment Assistance grant of less than $15,000.

Several of my members have already directly benefited from Trade Adjustment Assistance to their firms; other members are still in the T.A. pipeline.

Please continue to support this very worthwhile program. Its an investment in the future of America, not a bailout program. Support Trade Adjustment Assistance, its inexpensive and it works. Keep American manufacturing in America.

Sincerely,

MARVIN H. DORFMAN, *Executive Director.*

THE NATIONAL COUNCIL ON
INTERNATIONAL TRADE DOCUMENTATION,
New York, NY, February 20, 1985.

Hon. SAM M. GIBBONS,
Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The National Council on International Trade is a voluntary non-profit membership organization representing some 200 diverse companies with a prime concern in the nation's international trading community. We interface very closely with many U.S. government agencies, one of which is the U.S. Customs Service with whom we enjoy a sound and cordial working relationship.

The focus of this communication is to respectfully advise the Ways and Means Committee of our concern about a cutback in service to the importing and exporting community from the U.S. Customs Service. While we applaud the efforts of Customs to protect the revenue and maintain a diligent enforcement posture we expect an equal level of attention and treatment for the legitimate trading community. The centralization of major functions and the reduction in inspectional personnel at cargo arrival and departure facilities is an unwelcomed restriction on world trade practices.

We respectfully urge, therefore, that the committee consider very carefully the Customs Service budget and provide them with the necessary funds to carry out their two prime responsibilities, namely, enforcement and service, effectively and with efficiency.

Respectfully submitted.

HOWARD J. HENKE, *Executive Director.*

NATIONAL DIMENSION MANUFACTURERS ASSOCIATION,
Marietta, GA, February 12, 1985.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE GIBBONS: I am writing you on behalf of the U.S. woodworking industry who has been suffering from the adverse effects of a dramatic increase in imports of foreign made furniture, cabinets and component parts.

According to U.S. Department of Commerce, imports of household furniture items continued to increase at a significant rate during 1984. Furniture imports were up by an alarming 45 percent during the first six months of 1984 compared to the same period in 1983. Imported household furniture reached the $2 billion mark in 1984, representing a 25 percent compounded annual increase from 1979. Meanwhile, exports of U.S. produced household furniture dropped 4.4 percent on an annual basis during the first six months of 1984 and have continued to fall by a 9.2 percent annual rate between 1981 and 1984. Household furniture exports totaled a meager $195 million in 1984.

Imports dominated the industry news in 1983 and 1984, prompting Congress to ask the U.S. International Trade Commission to undertake a competitive assessment of the domestic upholstered and wood household furniture industries. A report was prepared by the ITC and submitted to the House Subcommittee on Trade in June of 1984. The report documents that the U.S. wood furniture manufacturing industry is losing ground to foreign competitors in both domestic and export markets. The report cites several reasons for our huge trade deficit in the U.S. woodworking industry which include significant labor cost differences, foreign government regulations and subsidies that favor their manufacturers and unequal tariff treatments.

Policies of foreign governments, particularly those in the Far East, reportedly give financial and special tax incentives to furniture and other companies who employ large numbers of workers and are export oriented. Current tariff schedules indicate that the rates of duty and imports of household furniture into the U.S. are substantially lower than similar rates of our major trading partners. For example, U.S. rates of duty on wood furniture are only 3.1 percent ad valorem. However, tariff duties assessed on U.S. exports of wooden furniture are 16.9 percent in Canada; 20 percent in Yugoslavia; and 100 percent ad valorem in Taiwan. To make matters worse, we allow a significant amount of imported furniture and component parts to enter U.S. markets duty free under the provisions of the Generalized System of Preference (GSP) Program. It's no wonder we have a huge and growing trade deficit in the U.S. woodworking industry and other U.S. manufacturing industries as well.

In an attempt to do something about our growing problem with imports, representatives from 15 different wood product trade associations joined together to conduct a comprehensive analysis of the U.S. wood products industry and develop strategies to assist U.S. wood product manufacturers to become more competitive with foreign competitors in *both* domestic and export markets. A copy of our final summary report of all projects conducted under this industry-wide effort is enclosed.[1]

The industry-wide project was made possible under a cooperative agreement with the Office of Trade Adjustment Assistance (OTAA) within the International Trade Administration of the Department of Commerce. The Office of Trade Adjustment Assistance administers a program authorized by Sec. 265 of the Trade Act of 1974. This program provides useful technical assistance to help import-injured industries become more competitive with foreign producers. We feel that the technical assistance received under our industry-wide project was extremely beneficial and will allow many U.S. woodworking firms to implement several new ideas and production techniques that will make them much more competitive with their foreign counterparts.

It has been brought to our attention that a recision order has been requested that calls for the Trade Adjustment Assistance Program to be discontinued. This would mean that all assistance to U.S. import impacted firms would cease and leave us without any form of *technical* assistance program to "help U.S. manufacturers help themselves" through the development and implementation of cost-cutting and productivity improvement measures. This program costs our Federal government only $27 million to administer and is *very small* compared to the several forms of government assistance received by foreign manufacturers.

Therefore, we strongly urge you to show your support for the Trade Adjustment Assistance Program by voting to deny the request for recision order No. R-85-60A. We also urge you to support an amendment to extent the Trade Act of 1974 to authorize the continuance of this valuable program in FY '86 and several years to come until we can solve our huge and growing trade deficit problem.

Thank you for your consideration in this important matter to our industry.

Sincerely,

STEVEN V. LOSSER, *Executive Director.*

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY,
TRADE ADJUSTMENT ASSISTANCE CENTER,
Trenton, NJ, February 20, 1985.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade

Our firms have requested that you please enter the attached for testimony for the Trade Act program.

JOSEPH T. TALLONE, *Director, NJ TAAC.*

Attachments.

BASCO, INC., PERTH AMBOY, NJ

COMPANY BACKGROUND

Basco, Inc. is a manufacturer of wood picture frames for the mid-price range customer market including the "do-it-yourself" market. This industry was impacted by imports which contributed to the erosion of Basco's market share, employment and sales levels.

TECHNICAL ASSISTANCE PROVIDED

TAAC recommended and cost shared over $50,000 of marketing and production consulting. These consulting services provided to Basco reduced production costs and resulted in increased sales. Basco also received a $300,000 federal direct loan for working capital and fixed assets.

COMMENTS BY COMPANY OFFICIALS

According to David L. Glaser, President of Basco:

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[1] Enclosure, "A Comprehensive Diagnostic Analysis of the U.S. Hardwood Dimension Industry," has been retained in the committee files.

"NJ TAAC has been the main reason that Basco was able to change from a company with severe problems to a much improved position. We had been hurt by imports and NJ TAAC's production and marketing expertise helped us survive. We are now positioned to move forward aggressively in today's competitive marketplace."

THE BATES MANUFACTURING CO., HACKETTSTOWN, NJ

COMPANY BACKGROUND

The Bates Manufacturing Company was established in 1889 by Thomas A. Edison to produce a mechanical numbering machine. Bates' product line has grown over the years and now includes a full line of office supplies such as staplers, list finders, card files, rulers and computer accessory supplies. The company occupies 125,000 square feet and has 322 employees, up from 300 a year ago. Distribution is international utilizing a full time sales force domestically and a network of agencies and representatives throughout the world. Bates has experienced severe competition from low cost foreign producers. The company became interested in the Trade Act program as a vehicle to provide a means to lower its manufacturing costs through new product development which would enable it to compete more effectively with imports.

TECHNICAL ASSISTANCE PROVIDED

The NJ TAAC assisted the company management in the preparation of a recovery program which concentrated on improvement of the warehousing and product design and development areas. The consulting assistance secured by TAAC for these projects cost approximately $68,000.

The warehouse project produced increased efficiency, improved space utilization, establishment of improved work standards and an overall cost reduction. Additionally, four new products were developed with the assistance of an outside design firm. Modernization of the company's products and development of new items will enable the Bates company to penetrate new markets and regain sales.

The company is currently experiencing a 10% growth in its sales volume over the previous period.

DENTON VACUUM, INC., CHERRY HILL, NJ

COMPANY BACKGROUND

Denton Vacuum is a manufacturer of vacuum chemical coating equipment. A few years ago Denton enjoyed a significant share of the market when sales rapidly declined. This was due to the introduction of imported improved equipment by British, Swedish and Japanese competitors. Without assistance Denton had considerable difficulty competing with foreign products and could not match the funds spend by foreign competitors on product improvements, advertising and product literature.

TECHNICAL ASSISTANCE PROVIDED

The firm, with the assistance of the NJ TAAC, is now regaining and expanding market share. Over $94,000 in consulting assistance, 75% funded by the TAAC program, was provided to Denton. The funding used private consulting firms to develop three successful new products. One new product is used in semi-conductor fabrication to chemically coat computer chips. It represents Denton's expansion into the electronics industry, a market in which imports have historically been involved. Additional technical assistance of up to $125,000 has been approved and consulting sources are now being secured for the firm's advertising, marketing and planning functions.

COMMENTS BY COMPANY OFFICIALS

According to Peter Denton, President:

"Denton Vacuum, Inc. reports significant success we have had with the Trade Adjustment Assistance Program. Technical assistance funded through the Trade Adjustment Program has enabled DVI to develop new products and marketing plans. As a result of these efforts, DVI's competitive position with respect to imports has been enhanced."

OXFORD DIVISION, THE HARTFORD CORP., NEW BRUNSWICK, NJ

COMPANY BACKGROUND

As printers and laminators of vinyl films, the Oxford Division products are used by manufacturers of table covers, shower curtains, juvenile products, upholstery, industrial covers and tarpaulins. New operations include production of non-woven textiles and composite materials for use in hospital operation rooms and sanitary hygiene products The vinyl film market is severely challenged by foreign competitors and Oxford faced lower sales as a result of low-priced imports just a few years ago which prompted their request for NJ TAAC assistance.

TECHNICAL ASSISTANCE PROVIDED

Recently a $1.7 million federal loan guarantee was provided as the result of the business plan jointly developed by Oxford and TAAC. This loan is being used to improve Oxford's facility and purchase equipment to manufacture new product lines. In addition to modernizing its plant, Oxford used TAAC technical assistance to obtain consultants to perform engineering and marketing studies, costing over $30,000. The company plans to add approximately 60 new employees to the staff due to the assistance received.

COMMENTS BY COMPANY OFFICIALS

According to Robert Magid, President of Oxford:

"We faced a very rocky financial situation," as saled declined from $10 million in 1980 to $7 million in 1983. Because of the TAAC program and the federal loan, "we expect to be back in the $10 million category within 24 months."

LAMBERT FURNITURE CORP., TRENTON, NJ

COMPANY BACKGROUND

Lambert Furniture Corporation is a manufacture of quality upholstered furniture, tables and chairs, supplying a number of chain and department stores including Macy's, Bamberger's and Bloomingdale's. Lambert's product line consists of more than 70 styles and hundreds of fabric combinations.

The company employs over 90 people and occupies 100,000 square feet in Trenton, New Jersey.

TECHNICAL ASSISTANCE PROVIDED

Subsequent to the approval of the firm's Adjustment Proposal, the New Jersey Trade Adjustment Assistance Center arranged for consulting assistance in the areas of:

Productivity and World Methods Improvement; Materials Requirements Planning; Production Control System.

As a result of work methods improvement and more comprehensive control of production, manufacturing output was increased 30-35% within a three month period permitting the company to virtually eliminate backlog and thereby improve customer service.

COMMENTS BY COMPANY OFFICIALS

According to Martin Hirschman, President of Lambert Furniture:

"We are an established furniture manufacturer that came under pricing pressure from imports. Through the New Jersey TAAC consulting program we have been able to reduce our manufacturing costs and increase unit productivity by 35%. This assistance has been key to the revitalization of our company."

PENNSYLVANIA WILTON CARPETS, INC., WAYNE, NH

COMPANY BACKGROUND

Pennsylvania Wilton Carpets, Inc., is one of the few manufacturers of high quality Wilton carpeting remaining in the United States. The term "Wilton" designates a specific weaving process which is used mainly in commercial carpeting for hotels, office building, banks, airports, casinos, aircraft and other heavy traffic areas and which is usually custom manufactured for a particular installation.

The decline in the domestic Wilton carpet industry is the result of competition from foreign manufacturers, particularly from the United Kingdom. Although the quality of domestic Wilton carpeting is highly competitive, foreign manufactured carpets have a price advantage in the marketplace because of lower labor costs.

TECHNICAL ASSISTANCE PROVIDED

To overcome the effects of imported products, a recovery plan was jointly developed by the firm and the NJ TAAC. The plan requested consulting assistance and a federal loan guarantee. The $1.5 million approved loan is being used to purchase new manufacturing equipment and inventory to support new sales resulting from the expansion of the company's contract weaving capabilities.

The company also received consulting assistance for the development of a comprehensive marketing plan and improved information system through the NJ TAAC.

COMMENTS BY COMPANY OFFICIALS

According to Michael Galesi, Chairman of the Board:

"The NJ TAAC has been a constructive element in our overall improvement. We are now experiencing significant gains in sales".

SOBEL BROS., PERTH AMBOY, NJ

COMPANY BACKGROUND

Sobel Brothers is a manufacturer of high-fashion costume jewelry. The company has consistently been a fashion trend leader and, because of this innovative ability, Sobel Brothers jewelry is often copied by Asian manufacturers.

The company employs over 150 people and occupies 30,000 square feet in Perth Amboy, New Jersey.

TECHNICAL ASSISTANCE PROVIDE

As part of its approved Adjustment Proposal, this company was approved consulting assistance for manufacturing layout, standards and meathods, and to upgrade management information systems. The first phase of this work has been completed and savings of up to 15 percent have already been achieved in several operations.

COMMENTS BY COMPANY OFFICIALS

According to Stanley Sobel, President:

"Not only is our costume jewelry affected by rapid fashion changes, it is also highly susceptible to imitation by offshore manufacturers in low labor cost countries. With the help of the New Jersey TAAC, we have been able to improve our operations through better work methods and control systems to cope with this competition. Our future is bright."

VOLTRONICS CORP., EAST HANOVER, NJ

COMPANY BACKGROUND

Voltronics Corporation is a manufacturer of precision products for the high tech electronics industry. Typical product applications include radios, radar, missile guidance systems, mobile phones and medical scanning equipment. Voltronics requested Tarde Act assistance when sales in several product lines were negatively affected by imports from the Far East and Europe.

TECHNICAL ASSISTANCE PROVIDED

Voltronics and the NJ TAAC prepared a recovery proposal which reflected a need for consulting and financial assistance. The NJ TAAC secured consulting for the development of equipment to produce a newly designed capacitor. The product has received positive industry acceptance with potential annual sales expected to be $1 million. Additionally, TAAC provided assistance in the preparation of an application for a direct loan of $500,000 from the federal government. The loan was approved and the funds are being used for working capital to support sales growth and the acquisition of fixed assets. Since the loan closing, sales have increased at an annualized rate of 30% and employment has grown from 60 to 71.

COMMENTS BY COMPANY OFFICIALS

According to Scott Newman, Vice President of Voltronics:

The financing and consulting assistance have "provided Voltronics with the long term financial strength to expand its product line and its marketing expenditures so as to ensure the company's continued viability in an ever-increasing competitive environment."

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY,
Trenton, NJ, February 15, 1985.

DEAR—: Last year I wrote to you regarding the continuance of the Trade Adjustment Assistance Program. Again this year, as you are aware, President Reagan has sent to Congress a "Recission Message" calling for the elimination of the Trade adjustment Assistance Program. The New Jersey Trade Adjustment Assistance Center (TAAC), a division of the New Jersey Economic Development Authority, has been operating under a grant from the International Trade Administration, U.S. Department of Commerce, since 1978.

If this program is eliminated, business and workers in our state and throughout the country will find themselves weakened as the trade deficit gap widens. Recently, Secretary of Commerce Malcolm Baldridge, by whom the recission order would be implemented, announced that the U.S. trade deficit for 1984 was $123 billion. Economists have estimated that the trade gap has cost America one-quarter million jobs.

Our New Jersey Trade Adjustment Assistance Center (TAAC) has been very successful in its operations and has provided technical and financial assistance to over 400 firms with an excess of 22,000 employees. It is estimated, through our assistance, the average cost of the program was $232 per employee retained.

Thanks to this program, numerous State of New Jersey manufacturers have been scoring successes in competing with imports. If the TAAC program is eliminated, we collectively lose. At this time, the New Jersey TAAC has a backlog of 104 firms receiving technical assistance and numreous loans pending approval. With the demand for this program at an all time high, we should be increasing the nationwide funding!

I would be very pleased if you would consider the past and present benefits of the program to New Jersey firms in the improvement of our industries' employment prospects and I look forward to your support in assisting us to continue the Trade Adjustment Assistance Program in New Jersey. Should you want to discuss this program further, please contact my office.

Very truly yours,

JAMES J. HUGHES, Jr.,
Executive Director.

Attached letter was sent to the following:

Hon. Bill Bradley, U.S. Senate, 4104 Dirksen Senate Office Building, Washington, DC.

Hon. Frank R. Lautenberg, U.S. Senate, 352 Senate Office Building, Washington, DC.

Hon. James J. Florio, House of Representatives, 1726 Longworth House Office Building, Washington, DC.

Hon. William J. Hughes, House of Representatives, 436 Cannon House Office Building, Washington, DC.

Hon. James J. Howard, House of Representatives, 2245 Rayburn House Office Building, Washington, DC.

Hon. Christopher H. Smith, House of Representatives, 513 Cannon House Office Building, Washington, DC.

Hon. Marge Roukema, House of Representatives, 226 Cannon House Office Building, Washington, DC.

Hon. Bernard J. Dwyer, House of Representatives, 404 Cannon House Office Building, Washington, DC.

Hon. Matthew J. Rinaldo, House of Representatives, 2238 Rayburn House Office Building, Washington, DC.

Hon. Robert A. Roe, House of Representatives, 2243 Rayburn House Office Building, Washington, DC.

Hon. Robert G. Toricelli, House of Representatives, 317 Cannon House Office Building, Washington, DC.

Hon. Peter W. Rodino, Jr., House of Representatives, 2462 Rayburn House Office Building, Washington, DC.

Hon. Dean Gallo, House of Representatives, 1724 Longworth House Office Building, Washington, DC.

Hon. James A. Courter, House of Representatives, 325 Cannon House Office Building, Washington, DC.

Hon. James Saxton, House of Representatives, 509 Cannon House Office Building, Washington, DC.

Hon. Frank J. Guarini, Jr., House of Representatives, 1530 Longworth House Office Building, Washington, DC.

METRO NEW YORK TRADE ADJUSTMENT ASSISTANCE CENTER,
Melville, NY, February 21, 1985.

Mr. JOSEPH K. DOWLEY,
Chief Counsel, Subcommittee on Trade, House Ways and Means Committee, Washington, DC.

DEAR MR. DOWLEY: In lieu of personal testimony, please accept the attached six copies of letters as testimony to be placed in the record.

Letters are enclosed for the following firms, as well as from the Long Island Area Development Agency:

Gim Metal, Inc.; UPA Technology, Inc.; Transworld Optics, Inc.; Tiffen; and Manson and Barish, Inc.

Sincerely yours,

RONALD K. BRANDES,
Director, Long Island Operations.

Enclosures.

LONG ISLAND AREA DEVELOPMENT AGENCY, INC.,
Plainview, NY, February 21, 1985.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Washington, DC.

DEAR MR. GIBBONS: Please accept this letter as the Long Island Area Development Agency, Inc. (LIADA) testimony to the committee and place this in the record.

LIADA was the first suburban Economic Development District designated by the Commerce Department. It is regional in scope: promoting business, industry, and export development within the Long Island Region; maintaining job opportunities for the region; encouraging the development and retention of industry in the region; cooperating with other public and private agencies of the bi-county region to promote economic development activities; promoting the general welfare and economic prosperity of the region; and acting as the principal coordinator of various economic development activities within the region.

The Long Island Region, Nassau and Suffolk Counties, is identified as the third largest high technology area in the United States. Industrial demographic data indicates that the industries which represent our country's future are emerging on Long Island and other high tech centers throughout this country.

Long Island manufacturers are diverse but small with most employing between 150-200 people and averaging only five to ten million dollars in annual sales. As stated, they and other high tech-related industries represent new and growing employment opportunities for the American worker. However, due to their reliance on the development or implementation of ever changing state of the art high tech applications, they are also the hardest hit targets of our overseas competitors.

To maintain and nourish these industries so that they may compete aggressively here at home against overseas firms supported by the resources of their foreign nations requires the special assistance which the Trade Adjustment Assistance Act provides. Basically in the form of technical assistance, the Trade Act's help is vital to those firms and industries which have been adversely affected by imports. If America's free trade policy is to be maintained, we must provide some assistance to those industries hardest hit by our own policy. We believe the Trade Adjustment Assistance Act will have a positive impact on Long Island. Therefore LIADA wholeheartedly supports the work of the program and asks that your committee likewise support and seek to maintain the programs of the Trade Act.

Thank you for your time and consideration.

Sincerely,

DENNIS J. FAHERTY,
Executive Director.

Gim Metal Products Inc.,
Carle Place, NY, February 20, 1985.

Hon. Robert Mrazek,
House of Representatives, Cannon House Office Building, Washington, DC.

Dear Representative Mrazek: Gim Metal Products, Inc. is a manufacturer of lamp parts and has been severely affected by import competition. Through the efforts of the Metro New York Trade Adjustment Assistance Center and it's Long Island Office, Gim Metal Products, Inc. is now receiving technical assistance through the TAAC Program which has included recommendations of an Optical Physicist as well as from Marketing, Management and Financial specialists. Due to this assistance the future of Gim Metal is more promising and we forsee a definite improvement in our sales.

It is our understanding that the Trade Adjustment Assistance Program is due for funding and reauthorization by Congress. This program is essential to a successful economic environment for manufacturers such as Gim Metal who have been seriously affected by competition from imports.

It is intended that this letter be placed in the public record in support of the Trade Adjustment Assistance Program.

Very truly yours,

Daniel Douenias, *President.*

UPA Technology, Inc.,
Syosset, NY, February 20, 1985.

Hon. Robert Mrazek,
House of Representatives, Cannon House Office Building, Washington, DC.

Dear Representative Mrazek: UPA Technology, Inc. is a high technology company engaged in the manufacture of industrial electronic instruments for measuring plating quality. In recent years, our firms has been severely and adversely affected by competition from equipment imported from Germany and Japan.

Through the efforts of Metro New York Trade Adjustment Assistance Center's Long Island office, our firm has now been certified as eligible to apply for assistance to meet this competition. A viability analysis has been completed and a diagnostic review of the industry and our firm is in progress. Adjustment assistance, including our business plan, is expected imminently.

The Trade Adjustment Assistance Program is vital to the success of manufacturers such as myself in our struggle to meet foreign compeition. Therefore, I request that this letter be put on the record in support of the continuance of the Trade Adjustment Assistance Program.

Sincerely,

Sidney Lieber, *President.*

Trans World Optics Inc.,
Hauppauge, NY, February 21, 1985.

Hon. Sam Gibbons,
Chairman, House Ways and Means Committee, Washington, DC.

Dear Congressman Gibbons: Trans World Optics, Inc. a manufacturer of precision and optical components, has been for the past eleven years, a supplier of optics to the military, the medical and television industries, and to many other commercial industries utilizing precision optical components.

We employed 70 highly skilled and semi-skilled workers and maintained an ongoing training program.

Our company, and every other manufacturer of precision optical components in this country, has been adversely affected by the import of optics from foreign controlled producers. Today we employ less than 20 people, and we are fighting to survive.

The optics industry has been targeted by foreign countries which make it impossible for an American company to compete. These foreign companies, backed by their governments, have obvious unfair advantages over privately run American businesses.

Today, over 85% of the optics used by our military, and 95% of the commercial companies using optics are being supplied by foreign interests.

This presents a potentially disasterous problem for our national security. The ability of the U.S. Precision Optics Industry to meet current and future peacetime and surge and mobilization requirements is now in jeopardy.

We must also like to point out that the loss to the United States in tax revenues must far outweigh any possible advantage realized through the purchase of cheap foreign optics. The 50 people of our small company who have had to collect unemployment or accept greatly reduced salaries in other companies where they are unskilled.

We have sought the aid of the Trade Adjustment Assistance Program, which is the only agency in this country which is available to help and advise companies which have been adversely affected by import competition.

The Trade Adjustment Program is staffed with professionals who have extensive, private sector experience, as well as specialized backgrounds in management, finance, production and engineering.

With their help, and with the reintroduction of the "Buy American" clauses in government contracts for optical components, we feel that we can rebuild our company.

We respectfully request that this letter be "on the record".

Yours truly,

DR. ROBERT H. LESHNE, *President.*

TIFFEN MANUFACTURING CORP.,
Hauppauge, NY, February 20, 1985.

Hon. THOMAS J. DOWNEY,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE DOWNEY: Tiffen Manufacturing, Inc., has recently developed a comprehensive strategy plan with the assistance of Metro New York TAAC under the provision of the Trade Act of 1974. I read recently that the administration is considering discontinuing the Trade Act.

My experience with the assistance provided by the Trade Act has been extremely positive. I appreciate how this program can benefit other companies whose sales production, and or profits are impacted by imports. The cost to the tax payers is minimal. Yet, my association with this program will ensure the continued employment of my current local work force of one hundred people. As a matter of fact, my successful strategy plan will add thirty-two workers within two years.

Once again, I urge you to vote for continuation of the Trade Act. The Revenue produced by Tiffen, its current work force, and added workers will provide sufficient Revenue to quickly off set the minimal cost to the taxpayers of the assistance Tiffen receives.

Sincerely yours,

NATHAN TIFFEN, *President.*

MANSON & BARISH, INC.,
Bay Shore, NY, February 20, 1985.

Hon. THOMAS DOWNEY,
House of Representatives, Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE DOWNEY: Manson & Barish, Inc. is in the initial stages of working with Metro New York Trade Adjustment Assistance Centers' staff in developing a recovery plan for my import impacted firm. I anticipate a successful strategy will result that will guide us through a temporary situation and will ensure the continued employment of my twenty local workers. The source of all this help is the Trade Adjustment Assistance Program which I understand is up for reauthorization and funding in Congress. I encourage you to vote for continuation of this program since in reality it is the only such program that provides firms like mine a means to aggressively compete against imports.

Considering the benefits to my firm and employees, its cost to the government is negligible. I suspect that the cost will quickly be recouped by the government in the form of corporate and employee taxes.

It is, therefore, requested that this letter become part of the public record in support of the Trade Adjustment Assistance Program.

Sincerely,

MEL WEINSTEIN, *President.*

Novasac Corp.,
New York, NY, February 15, 1985.

Hon. Theodore Weiss,
House of Representatives, Rayburn House Office Building,
Washington, DC.

Dear Representative Weiss: I am President of Novasac Sales Co., Inc., a manufacturer of ladies' handbags, a product category which has been adversely affected by imports. Over the years we have managed to survive through product innovation and our ability to respond quickly to customer needs.

The increasing volume of imports mandated that we make changes in the way our goods are produced. This will involve acquiring more up-to-date equipment and plant renovation which will improve our operating efficiency. Trade Adjustment Assistance financing will help in making these changes.

Trade Adjustment Assistance has helped safeguard over 175 jobs—most of which are held by persons from minority groups. These individuals would have found it difficult to find alternate employment.

I heartily endorse Trade Adjustment Assistance for firms and urge you to continue funding this program so that other import impacted manufacturers have somewhere to turn for help.

Sincerely,

Sam Erlichman, *President.*

Statement of Port of Oakland, Oakland, CA

BACKGROUND

The Port of Oakland has operated as an independent department of the City of Oakland since 1927. Seven Oakland residents, nominated by the Mayor and confirmed by the City Council, make up the Board of Port Commissioners responsible for the governing of the Port. Along its 19 miles of east San Francisco Bay shoreline, the Port is much more than ships and shipping. In addition to its 535 acres of marine terminals, the Port jurisdiction includes an international airport, a business park and distribution center, leisure and recreational facilities and undeveloped open space.

The Port is the only City Agency that pays its own way without tax support and is financially self-supporting. All income over operating costs and debt service goes for expansion and improvement of the Port area.

The Port's impact on the Oakland economy in terms of jobs, purchases, taxes and other activities amounts to $4.6 billion a year. Of the approximately 198,000 jobs in the City of Oakland, over 50,000 are directly and indirectly attributed to the activities of the Port. One out of four Oakland residents who work in Oakland depend on the Port's activities for their livelihood.

Since 1962, the Port of Oakland has handled a total of over 10 million ocean shipping containers (expressed in twenty foot equivalent units). Each year over 60 shipping companies, 1,400 vessels, and 11 million tons of cargo are handled by the Port of Oakland. We experienced a 48.6% increase in imports for the final 9 months of 1984, comparied to the same period in 1983.

Oakland International Airport has experienced extensive growth both in its physical plant as well as its increased number of airlines, flights, cities served and passengers handled.

It now handles 15 airlines with over 100 flights per day. A $42 million expansion program is now underway to improve access roads and parking, and construct a two level terminal building, containing 100,000 square feet of space plus a second level expansion to the existing terminal. The expansion will enable the Airport to accommodate 8 million passengers a year. This $42 million expansion is being accomplished with Port generated funds.

As of June 1984, approximately $200 million has been invested in the Oakland seaport and approximately $100 million will have been invested in the Oakland Airports.

SEAPORT

The Port of Oakland, long recognized as the primary Pacific Coast port for furnishing containerized exports to Asia, is emerging as a major gateway for containerized imports flowing from Asia to inland United States as well as northern California points of distribution.

Three trans-Pacific carriers—United States Lines, Mexican Line (TMM) and Australia-New Zealand Container Line—now have Oakland as regular first port of call inbound and we anticipate further shipping lines will make Oakland first port of call.

The Port enjoys four competing rail routes for inland intermodal transportation. The Union Pacific system and the Southern Pacific railroad have routes through the "central gateway" to mid-America (SP joins DRGW Railroad at Ogden, Utah). In addition, the southern route is served by both the Santa Fe and Southern Pacific Railroads. The intermodal yards for both the Union Pacific and the Southern Pacific Railroads are a mere 1½ miles from ships' dock with the Santa Fe's intermodal yard, located minutes away with its drayage cost equalized.

Results from aggressive Port marketing of the advantages for imports moving over the Port of Oakland have started to materialize with a 48.6% increase in imports in the first 9 months of 1984. The available empty rail equipment in Oakland—due to offloaded export shipments—plus the rapid transfer from ships' dock to railhead has begun to be recognized as an advantage to the shipping public. This ability of Oakland to provide two way movement for specialized intermodal rail equipment epitomizes athe current need for efficient movement of cargo in today's highly competitive environment.

Of a local nature, the New United Motors Manufacturing, Inc. (NUMMI) (NUMMI is a joint venture between General Motors and Toyota) located in Fremont, California, just south via freeway from the Port of Oakland, will increase our imports by approximately ½ million tons per year. This new import business will encourage shipping companies to re-evaluate their ships rotation with the result Oakland could be a first port of call to NUMMI cargo as well as other inland intermodal distributions.

It should also be pointed out that the San Francisco Custom District (of which Oakland makes up over 90% of shipping line cargo volume) has a $40 to $1 revenue return to cost for US Customs with the national average being in the $20 range. Oakland, by nature of its specializing in high value general cargo enjoys an average dollar value per short ton of $2,014 in 1983 up from $1,903 in 1981. The U.S. average was $366/ton in 1983 and $348/ton in 1981.

Airport

Oakland International Airport, with its environmentally superior plane arrivals and departures over water, is served by an extensive transportation network. It is accessible from several major freeways, and Oakland AirBART bus shuttle service connection to the Rail Rapid Transit BART system. It is the key Airport serving the rapidly growing East Bay communities for both business and pleasure travelers.

CUSTOMS IMPACTS ON OAKLAND AIRPORT AND SEAPORT

Airport

U.S. Customs' decision to discontinue service to Military Airlift Command (MAC), international flights to Oakland International Airport, has forced Mac flights to San Francisco's International Airport for U.S. Customs service at a added cost to MAC charter operators in excess of $2,700/plane. Oakland had aggressively solicited this business and MAC was extremely pleased with the service they received at the Oakland International Airport. Because Customs would not continue to send inspectors to Oakland from SFO to clear one wide body per night these flights have to fly to SFO.

This resulted in lost business to Oakland and premium costs to MAC as well as being counterproductive to the FAA intentions to relieve congestion and related delays at very busy airports by redistributing air traffic to underutilized airports serving the same metropolitan area.

It should be noted that the U.S. Department of Commerce lists the Oakland East Bay as a separate metropolitan entity with a ranking of 19th largest in the nation; whereas, San Francisco is listed as 27th largest in the nation. Also several other metropolitan areas are served by U.S. Customs through more than one airport. Examples are:

(1) Greater Miami which is served by U.S. Customs at Miami and Ft. Lauderdale Airports;

(2) Washington/Baltimore which is served by U.S. Customs at Baltimore-Washington and Dulles Airports;

(3) New York is served by U.S. Customs at Kennedy, La Guardia and Newark Airports; and

(4) Dallas/Ft. Worth which is served by U.S. Customs at Dallas-Ft. Worth and Love Airports.

REGIONS

U.S. Customs closed the San Srancisco Regional office and justified this closure so as to "handle the entire West Coast from one Region (Los Angeles)" while keeping open the New Orleans Region despite its declining volume trend as opposed to the growing volume trend of the San Francisco Region.

Now, we understand U.S. Customs is considering the incorporation of the Seattle District (part of the old SF Region) into the Central Region (Chicago) to "handle the entire Canadian border under one Region," thereby refuting its justification for the closing of the San Francisco Region only two years ago.

ACCEPT

U.S. Customs publicized an original ACCEPT program schedule, then accelerated implementation of the automated program due to lack of manpower. The system now requires experienced inspectors to input data rather than inspect import cargo. What has been learned from the rapid introduction of the ACCEPT program, is that it is a good idea, but the implementation requires coordination and understanding of all the parties in the system who are affected.

CONCERNS

The ports and shipping lines are concerned with what appears to them to be new procedures implemented arbitrarily without advance communication. As examples, U.S. Customs planned to require inspection of import containers at port of unloading regardless of negative economic impacts on the international business community and distruption to the intermodal transportation system; reduction in the number of U.S. Customs inspectors for use by Operation Exodus and not to replace them before an alternative automated system was in place.

The industry is also concerned that U.S. Customs apparently ignores the trend of increasing participation of West Coast ports in total US liner trade, an increase of 82.5% in exports and 76.2% in imports over a 13 year period and ignoring the trend that since 1980, more US International commerce moves across the Pacific Ocean than moves across the Atlantic Ocean, with the difference forecasted to increase.

ONE TAX ALLIANCE,
Arlington, VA, February 12, 1985.

JOSEPH K. DOWLEY,
Chief Counsel,
Committee on Ways and Means:

This written statement for the record is submitted in connection with press release of Feb. 7 concerning the public hearing on Feb. 21, 1985 by the Subcommittee on Trade.

It is a far cry from the days of the revenue cutter service to the U.S. Custom Service plus the various activities of today which seek to implement a free trade policy, without success.

Tariffs, exclusions and penalties are not working, witness the huge trade imbalances. A preferable method is an import prohibited on either side where there are government or other subsidies of whatever nature.

Too long have businesses depended on other than a competitive economy and their own efforts. Severe reductions in proposed budgets are recommended.

SAMUEL GREENBERG, *Chairman.*

OPPORTUNITY DEVELOPMENT ASSOCIATION,
Brooklyn, NY, February 21, 1985.

JOSEPH K. DOWLEY,
Chief Counsel, House Ways and Means Committee, Washington, DC.

DEAR MR. DOWLEY: This letter is an urgent request for your favorable consideration in refunding of the Trade Adjustment Assisting Program.

It has been a good program for our Hasidic Community. Our import impacted firms have survived and jobs have been saved. We must continue this kind of assistance to make us independent.

Please enter my letter into the Congressional Record so that others can learn from our positive experiences.

Respectfully yours,

ZVI KESTENBAUM, *Executive Director.*

OWENBY MANUFACTURING CO., INC.,
Blairsville, GA, February 20, 1985.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade, Longworth House Office Building, Washington, DC.

DEAR SIR: I am aware of a rescission request which is before the House at this time. It is my understanding that the purpose of Rescission #R-85-60A is to rescind funds that have been appropriated to the Trade Adjustment Assistance Program.

This program was created to assist the many businesses that have been adversely effected by the vast influx of imports to this country. Apparel and textile manufacturers have especially been crippled by imports, and a program such as the Trade Adjustment Assistance Program is invaluable to our economy during this period. An alarming number of small apparel and textile manufacturing companies have had to curtail or even close their operations due to their inability to compete with imports. The impact on our economy is devastating.

Owenby Manufacturing Company, Inc. has benefited greatly from assistance from this program in all areas of our operation, and I feel that every effort should be made to maintain this program as long as the need exists.

I, therefore, urge you to work to defeat this rescission on behalf of Owenby Manufacturing Company and the entire apparel industry.

Yours very truly,

PAUL B. OWENBY, *President.*

PALACE KNITTING MILLS INC.,
Brooklyn, NY, February 19, 1985.

Hon. EDOLPHUS TOWNS,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN TOWNS: As President of Palace Knitting Mills, a trade impacted firm, I strongly urge your support for the trade adjustment assistance program.

Our company was certified eligible for program benefits and is now in the process of preparing an adjustment plan which will spell out the type of help we require. We feel that the company will especially benefit from technical assistance which will be made available through this program.

Even at this early stage in the adjustment process, there has been some benefit to the company. Managements need to look closely at the operation, as part of the diagnostic phase, has forced us to be more analytical with respect to the conduct of our business.

We employ many unskilled minority people who learn on the job and become productive, skilled workers. This enables them to be tax paying citizens instead of being dependent on welfare.

Please enter this into the Congressional Record.

Very truly yours,

HARVEY GEISLER, *President.*

PARKER METAL CORP.,
Worcester, MA, February 19, 1985.

Hon. JOSEPH D. EARLY,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN EARLY: We have received valuable help through the Trade Adjustment Assistance Program—a program which the Administration has not included in their budget recommendations, but which we believe has merit and deserve to continue to exist.

Parker Metal Corporation faces a more positive, profitable future, largely due to the help we received through the TAAC program. They provided us with expert consulting services in both engineering and marketing. We have implemented a cost control system with the help of the New England Trade Adjustment Assistance

Center, and we have also received a Trade Act loan. Our 500 employees probably have a more secure future as a result of our project with the Trade Adjustment Assistance Program.

Companies in our position can compete with imports, but we cannot always do it alone.

I hope you will do your best to see that Trade Adjustment Assistance goes forward, so that other manufacturers like us can also benefit from it.

Sincerely,

JORDAN LEVY, *President.*

PEERLESS UMBRELLA CO., INC.,
New York, NY, February 20, 1985.

Hon. WILLIAM GREEN,
House of Representatives, Longworth House Office Building, Washington, DC.

MY DEAR MR. GREEN: As a company which has received Trade Adjustment Assistance benefits, we have first hand experience on the impact the program can have on a firm being affected by imports. The help provided not only helped insure the survival of our firm, but enabled us to enter into a licensing arrangement with Yves St. Laurent.

The transition from a budget to better priced umbrella manufacturer, has helped shelter us from low-priced imports. This has also assured the continued employment of our worker force.

Please continue funding the program . . . as the imports are still hurting many companies . . . and they should also have an opportunity to save their businesses. Please enter these facts into the record.

Sincerely,

ED MOSCOWITZ, *President.*

PUERTO RICO CHAMBER OF COMMERCE,
San Juan, PR, February 14, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: With the concessions given by the Caribbean Basin Initiative and the increasing share of foreign manufactured goods in our economy, assistance needed by island manufacturers threatened by import competition continues to be one of our most serious concerns. This assistance is of special interest to our basic industries such as cement, steel, rum, furniture, foodstuffs and beverages, among others.

The Puerto Rico Chamber of Commerce believes that the International Trade Administration's Trade Adjustment Assistance Program is unique in this respect. The TAA Program's continued services are of particular importance to our members in conserving jobs in Puerto Rico.

As firm believers in free enterprise, we strongly endorse the TAA Program as the best alternative for conserving our free trade system and ask your complete support for its continuation.

Respectfully yours,

CRUZ IRIZARRY, *President.*

RICHTONE LTD.,
New York, NY, February 12, 1985.

Hon. WILLIAM GREEN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. GREEN: We are manufacturers of knitted sweaters, dresses and other sportswear. Our industry has been severely hurt by cheaper imports from the Far East. Because of this we applied to Metro New York TAAC for assistance. They helped us find ways in which we could remain viable in the development of a business plan.

We, therefore, urge you to vote for the Trade Adjustment Assistance program as it is an important and vital way to help manufacturers hurt by imports. Please enter the above comments into the Congressional Record.

Thank you.

Respectfully,

JACK DONSKY, *President.*

Joseph Sander Supply Co.,
Brooklyn, NY, February 15, 1985.

Hon. Stephen J. Solarz,
House of Representatives, Longworth House Office Building, Washington, DC.

Dear Representative Solarz: I am president of Joseph Sander Supply Company, a manufacturer and marketer of junior sportswear and accessories. My import impacted firm is currently benefiting from the provisions of the Trade Act of 1974. Gains have already been realized.

It has come to my attention that continuation of the Trade Act of 1974 is soon to be voted on in Congress. I urge you to support continuation of this Act not only because it has helped my firm but also so that other import-impacted manufacturers can benefit. It provides the only source of assistance to firms like mine at little cost to the taxpayers.

With its continued help, Joseph Sander Supply Company can preserve employment for its 20 local, long-term employees as well as the 35 workers employed by our nearby major contractor. Both the firm and these 55 workers will quickly repay in terms of tax dollars more than what this assistance cost the government.

Once again, I urge you to vote for continuation of the Trade Act of 1974. Please see that this is entered into the congressional record.

Very truly yours,

Joseph Sander, *President.*

Joint Statement of C.A. Shea & Co., Inc. and the Kemper Group

This statement is submitted on behalf of C. A. Shea and Company, Inc., an insurance brokerage firm headquartered in New York City which specializes in writing U.S. Customs surety bonds countrywide, and the Kemper Group, a diversified financial organization which is a major underwriter of these surety instruments.

C. A. Shea and Kemper appreciate having this opportunity to set forth our views on the operations and management of the Customs Service. This statement is intended to be an extension of what we have viewed as a very constructive dialogue with the agency and the Congress on matters of mutual concern. While we have not been hesitant in the past to criticize the agency when we felt that their initiatives were either unjustified or unworkable, we have always done so in a civilized fashion and have the highest respect for the political appointees and senior civil servants charged with the responsibility for managing this agency.

In this statement we would like to comment on (1) the agency's proposal for eliminating the current surety bond system; (2) the agency's practice of entering into debt payment agreements with delinquent entities which are unfavorable to the government; (3) the agency's computerization efforts; and (4) the agency's implementation of the new universal Customs Bond form. We would like to conclude our statement by making some suggestions for a thorough financial management study to be performed by the U.S. General Accounting Office.

ELIMINATION OF THE CURRENT BONDING SYSTEM

In October of 1983 the Department of the Treasury and the U.S. Customs Service released for comment an advance notice of proposed rulemaking outlining several possible alternatives for reducing or eliminating the current surety requirements. We could not understand why the agency was considering such fundamental changes in the operation of the bonding system. This system has operated successfully for over fifty years. Via a Freedom of Information Act (FOIA) suit we managed to obtain the work papers which set forth the basis for this rulemaking.

These work papers state that surety companies have perfected dilatory tactics which not only defer or avoid payments but also impose additional work, both in terms of manhours and paperwork, on customs. The work papers further state Customs' view that while sureties may serve the function of coercing the principal on one of the bonds to pay, in most cases the agency has at its disposal equally effective means of ultimately assuring payment. It is an understatement to say that we found these comments groundless and inaccurate.

With respect to the assertion that surety companies have perfected dilatory tactics we sought from the agency via an FOIA suit copies of all reports and memoranada analyzing and evaluating the collection of amounts receivable from sureties. It seemed logical to assume that if the Customs Service asserted that there was a pattern of sureties utilizing dilatory tactics, there must be some accounting management reports to support this contention. The response of the Customs Service to this inquiry was clear and unequivocal: The Customs Service of knows of no reports or memoranda which would be responsive to this request.

In response to the second assertion dealing with the agency's own efforts to collect amounts due the government we sought lists of all accounts receivable not covered by a surety bond in the past five fiscal years as well as lists of all accounts receivable written off as uncollectible during that period and a list of all accounts receivable were no legal collection action has been taken within the past two years. The response to this inquiry was equally clear and unequivocal: The Customs Service does not maintain lists in the formats or breakdowns requested. Thus, the Customs Service does not have the accounting management information to document its contention that it can succeed on its own in collecting amounts due the government. Further, it has no idea what its own track record has been in collection debts to the government not guaranteed by a surety, nor does it know how many cases it has referred to the Civil Division of the Justice Department for collection or written off as uncollectible. In short, Customs has no idea where it stands in managing accounts receivable for which there is no surety protection.

Some further comments seem justified with respect to the question of enforcement. Since Customs does not have any enforcement powers in its own right, they must use the Civil Division of the Justice Department to initiate collection. We doubt that the use of such a route would prove cost-beneficial. It appears clear to us that if the Customs Service currently is experiencing difficulty in collecting amounts due from the handful of surety companies active in this market, its collection problems would be magnified 10,000 times over if it ultimately intends to pursue delinquent individuals and corporations separately. It should also be noted that current Federal regulations preclude the Civil Division of Justice from initiating a collection action for an amount less than $600. The very existence of this limitation will serve as a disincentive for individuals owing small amounts to meet their legitimate obligations.

UNFAVORABLE DEBT PAYMENT AGREEMENTS

We have been distressed to note that in recent years the Customs Service has decided to enter the banking field by serving as a lender to those individuals and corporations delinquent in meeting their obligations to the agency. The Customs Service has made it a practice in recent years to enter into payment agreements which adversely impact the U.S. taxpayer at times when a surety bond was in place which would have guaranteed full payment to the government in a timely fashion. In one particular incident with which we are familiar, the agency allowed an importer to settle a dispute by paying an amount of $661,114.00 in twenty-four monthly payments with an interest rate of 7% per annum. This rate of interest is, of course, lower than that which the government must pay on funds which it borrows. It is incredible to us that the government would enter into this type of an agreement when a surety company is available to provide full payment up front.

COMPUTERIZATION

It is difficult to criticize the Customs Service for its efforts in recent years to fully computerize its operations. We do, however, have two observations to make with respect to these efforts which we feel are pertinent.

First, the agency should not implement new computerized systems until it has more thoroughly tested such systems. Time and again we have seen the agency implement a new computerized data system without adequate testing. Such premature system activations have only served to further complicate operations for those of us in the private sector.

Second, we seriously doubt that there will be any meaningful improvement in agency operations until a more comprehensive financial management control system is implemented. Computerization itself is not the answer!

As this subcommittee is no doubt aware, the U.S. General Accounting Office in May of last year released a report entitled Internal Control Weaknesses at the U.S. Customs Service. This report documents the recent history of weak internal accounting and audit controls which give rise to our belief that the agency is ill prepared to accept the responsibility for tracking and collecting amounts due the government. Two of GAO's principal findings were:

Collection controls needed improvement at most locations. Collections were not properly logged, correctly accounted for or adequately safeguarded; duties of employees handling collections were not adequately divided, and in a few instances, collections were not promptly deposited.

Accounts receivable were not sufficiently administered at most accounting stations. The receivables were not promptly and accurately recorded in the accounting records, and efforts to collect outstanding receivables were neither prompt nor aggressive.

CUSTOMS SURETY BOND FORM 301

On October 19, 1984 the Customs Service issued a final rule implementing a new surety bond form designed to simplify transactions between Customs and the importing public and to facilitate the establishment of an efficient computerized bond control system. This system was fully implemented on February 18, 1985.

This new bond form and system were described to this subcommittee in testimony provided by Commissioner von Raab last year. The Commissioner said:

"The new bond system when fully implemented will be a fully automated on-line system. The record retrieval capabilities and speed inherent in such a modern day system will expedite entry documentation flow and thus facilitate the movement of cargo. Additionally, the record and information storage capabilities of the system when linked with bond limits, will enhance our revenue protection efforts. The system will automatically check for bond sufficiency and immediately notify the cognizant Customs officer if the bond amount is adequate, approaching its limit or is exceeded. The immediate availability of this information will permit the officer to review the facts and make a determination if an increased bond amount is required. The ability to respond to such situations will greatly enhance our revenue protection and enforcement capabilities."

All that we can say with respect to this statement by the commissioner is that we wish it were so. Unfortunately, we must report to you that the new bond form was fully implemented this week, but the agency's computer system is not in place to support this new bond structure. Implementing this new form prematurely has resulted in a thoroughly predictable amount of confusion. While we have tried diligently to work with the agency in recent weeks to obtain clarification with respect to a number of technical matters insufficiently addressed in the final rule, we have found that considerable doubt remains with respect to the implementation of this new form in dozens of this nation's 319 ports. In addition the predictions made by Commissioner von Raab that this new form will save the importing public some $11 million per year seem unlikely to materialize since some of the major surety companies have raised their premium rates substantially, in one case some 300%.

CONCLUSION

It would be our recommendation that this subcommittee ask the U.S. General Accounting Office to expand upon its past management control studies of the Customs Service and specifically examine the following matters:

The cost/benefit of consolidating all agency financial management operations in Indianapolis, Indiana. Plans for such consolidation are now in the early stages of implementation.

The wisdom of the agency's entering into debt payment arrangements at rates of interest unfavorable to the government in situations where a surety is available to make full payment to the government.

The paperwork and financial costs/savings associated with the new universal Customs Bond form.

The feasibility of a totally paperless Customs entry.

SOUTHERN APPAREL CONTRACTORS ASSOCIATION INC.,
Atlanta, GA, February 20, 1985.

Hon. SAM GIBBONS,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN GIBBONS: With testimony beginning on Trade Adjustment Assistance funding for import-impacted firms and industries, I feel it is timely to once again ask your help in preserving this funding through the U.S. Department of Commerce.

Our domestic apparel/textile industry is one of the most seriously import-impacted. The industry employs more than 2 million people, more than any other single industry. Yet lack of import protection is stealing our jobs at an alarming rate. We lost 150,000 apparel jobs in 1983 and an estimated 250,000 more in 1984.

The Trade Adjustment Assistance this association and its sewing plant members received in 1983 helped save some of these jobs. We are still facing the crisis, but unfortunately the funding has been redesignated to other projects.

The individual assistance received by many of our members helped them keep the doors of their plants open and their employees working. But their problems are bigger than ever with the vast labor cost differential between the U.S. and the third world countries. With U.S. wages approximately 10 times greater for the same job, the dollar so strong and enforcement of existing agreements so weak, the exploitation has just begun.

This association's and its members' experience proves Trade Adjustment Assistance funding helps. We certainly hope you agree it is essential to retain and ultimately add to funding for this vital program—the only direct assistance available from our government to U.S. firms and industries which have been injured in competition with products manufactured in foreign factories wages too low to be legal in the U.S.

This industry and others like it need assistance more now than ever to keep our people working until much needed import protection is enforced.

We ask your support of funding for Trade Adjustment Assistance to import-impacted firms and industries

Sincerely,

R. Donald Strickland, *President.*

Sporting Goods Manufacturers Association,
North Palm Beach, February 20, 1985.

Hon. Sam Gibbons,
Chairman, House Subcommittee on Trade, Longworth House Office Building, Washington, DC.

Dear Congressman Gibbons: On behalf of the sporting goods industry, we would like to take this opportunity to express our strong support for the continued funding of the Trade Adjustment Assistance program and the need to extend the Trade Act of 1974 which authorizes trade adjustment assistance to firms and industries.

The Sporting Goods Manufacturers Association's (SGMA) "Report on U.S. Imports" covering the seven month period from January through July, 1984, reveals that sporting goods imports increased 45 percent over a similar period in 1983, the largest such gain in more than a decade. The study, based on Department of Commerce figures, measures import units and declared value of 26 sporting goods items, excluding archery, bowling, billiards, ski, fishing, camping equipment, athletic clothing, most activewear and athletic footwear. Imports of the 26 items totalled over $800 million in declared customs value last year, while total sporting goods imports, including footwear, apparel and other product categories not in the industry's SIC code number 3949 category, were expected to reach a staggering $5 billion. With the deficit reaching $4.5 billion in 1984, an increase of $1.2 billion in less than one year, and projections for 1985 and beyond being changed upward with alarming regularity, there is, indeed, cause for major concern.

For the past several years, the SGMA has addressed this problem through a series of export promotion programs, many of which were achieved through a partnership agreement between SGMA and the U.S. Department of Commerce.

Our most recent effort, the International Marketing Institute for Sports (IMIS), was made possible by a grant from the International Trade Administration through the Southeastern Trade Adjustment Assistance Center. These funds were utilized to develop and implement a series of 4½ day seminars designed to educate sporting goods manufacturers on the rudiments of export trade and international marketing. Since its inception in 1983, more than 110 industry representatives graduated from the program. And, as evidence of SGMA's commitment to the program, 1985 will mark the second best year that the association will fund the entire program without support from the federal government.

IMIS took the mystery out of the export process by providing the vehicle whereby obstacles could be overcome and export could be achieved. The most significant aspect of this program, however, is that it is predominately generic in nature and could easily and successfully be applied to other domestic industries which are adversely affected by foreign competition.

More recently, SGMA was again the recipient of support from this important Department of Commerce program in the form of cost-sharing five country market surveys and preparing a comprehensive guide to world markets. The compatability of the IMIS program and the country market surveys underscores the importance of working in partnership with the federal government. The IMIS program teaches how and the country market surveys show where. We are confident that the combination of these programs will help mitigate the effects of a growing deficit.

SGMA is firmly committed to export promotion. Only through an aggressive export program can the well-being of this industry be enhanced, the trade deficit decreased and domestic jobs created. The Trade Adjustment Assistance program has been instrumental in helping many domestic industries achieve these goals for the good of the nation's economy. They have helped to keep American industries competitive in domestic and international markets and through this have increased domestic jobs. In light of the success of these programs and their impact at home and abroad, we feel it is essential to sustain the full funding levels of this program and extend the Trade Act of 1974 which authorizes trade assistance to firms and industries.

Sincerely,

ANTHONY L. KUCERA, *Vice President.*

STATEMENT OF HON. FORTNEY H. (PETE) STARK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, members of the committee, I would like to ask your help on a Customs problem in the San Francisco Bay area—and I would like to volunteer some ways to pay for that help and to make other savings in the Customs Service.

Mr. Chairman, as you know, I have written to you describing a serious shortage of personnel in the San Francisco area. That shortage may end up costing the taxpayers extra expenditures and the Oakland area dozens of jobs and millions of dollars of business. Specifically, for some time, the military has done Customs' job by preclearing its personnel leaving Korea. The flights land at Oakland International Airport where they do not need to go through Customs again—and where the hundreds of passengers create jobs and sales for the Oakland community. The flights also avoid San Francisco Airport which is badly overloaded and where international flights frequently experience Customs delays. It costs the military up to $8,100 less per week or $421,00 less per year to land at Oakland than it does at San Francisco.

But the military now says it has to stop the preclearance flights. Thus they will have to clear Customs in the Bay area. But Customs says it doesn't have the manpower to send inspectors over to Oakland. The solution would be to hire some temporary or part-time inspectors to meet the occasional flight into Oakland. The cost to Customs would be about $100,000 to $200,000. Or putting it another way, the savings to the public by maintaining flights into Oakland would be about $200,000 to $300,000 per year. Clearly, not to provide the extra part-time personnel would be penny wise and pound foolish. Therefore, I ask your help in finding the $200,000—a figure I believe is on the high side.

I know the funds are hard to see. When you look at Customs' budget, you see cuts in the traditional passenger inspection and cargo clearance functions—the meat and potatoes of the Customs job. The air interdiction arm request is up $16 million, but the total Customs budget is down $11.5. This means a cut in the traditional functions of $27.5 million. Further, INS is scheduled to drop $11 million—yet cargo and people crossing the borders are expected to rise. For example, Customs is expected to collect an extra $600 million in tariffs while processing an extra 6 million people. INS is expected to deport 300,000 more aliens.

Clearly, someone at OMB is smoking something that should have been intercepted at the border.

Still, let me offer suggestions on ways to find some money so we can afford the part-time inspectors at Oakland.

The Administration is proposing a major increase in the IRS to eliminate various sources of tax evasion or error. Some 2500 additional IRS officers are expected to raise an additional $2 billion over the next three fiscal years. Customs is the same as IRS. There is corporate, shipper, and individual evasion of the nation's tariffs and other laws—and more Customs officers will slow this hemorrhage and raise more revenue than they will cost. So let me say that spending more on Customs pays for itself many times over.

But efficiencies are also possible.

San Francisco used to be a Regional Customs Headquarters. That was closed and we were placed under Los Angeles' jurisdiction. Shippers tell me that decisions and resources are now slower to reach us and that we have lost because of this change. But the Port hasn't died; goods aren't piled up on Alcatraz waiting clearance. Frankly, I think other Regional HQ cities could endure what San Francisco has gone through. In an age of computers and telecopiers, the regional headquarters system is an anachronism. More of them should be closed, and the savings convertd to line inspectors.

Second, Customs needs better tools to intercept drug traffickers and the air interdiction arm probably makes sense. But you should take a close look at this. Why can't the military do more to help? We are providing billions to give our Air and Navy pilots more air time—why not give them some practical interception lessons. Perhaps the posse comitatus law should be further amended to allow more military support of the huge job of stopping air smuggling. And if you give Customs a new air unit, look at what they are doing with the older, slower units. Three years ago, Customs had about 70 aircraft, and many of those were so useless in fighting crime that they had utilization rates of less than 10%. Make Customs sell off the planes that aren't being used to fight smuggling, so that the total cost to the public is reduced.

Third, last year we finally made it easier for Customs to get rid of seized vehicles which had been used in the drug trade. Customs and other law enforcement agencies can use some of these vehicles in their own anti-crime efforts. But watch this program. Again, three years ago, there were a surprising number of Cadillacs, Jaguars, and Mercedes in Customs' auto fleet, presumably being used for undercover work. Still, not all cases need a Knight Rider to be solved, and the sale of one $80,000 car could pay for six or seven of the part-time workers that Oakland needs.

Fourth, in their deficit cutting proposals, OMB is apparently working on some Customs user fees. Customs—all agencies—are facing a decade of tight budgets. Why shouldn't Ways and Means lead in enacting some of these user fees in this authorization bill on the condition that some of the revenues be used to provide necessary increases in staffing. I know this last proposal would raise a storm, but how are we to regain control over our borders, when each year Customs and INS stagnate in the facing of growing workloads? I think the general public would support these types of financing charges if it resulted in enough border personnel to make a difference in stopping drug trafficking, illegal immigration, and the mislabeling and counterfeiting of products which hurt American firms and jobs.

One last point: I see that in the budget justifications the Office of the Trade Representative is again asking for an increase in its cocktail party fund. This fund has pretty much doubled in the 1980's and they now want to raise it from $68,000 to $72,000. Why don't we take it back to where it was, say, $30,000 and give Oakland three part-time inspectors?

To summarize, I have a local problem which if not solved will hurt my community and will cost the taxpayers more money than will be saved by not addressing the problem. I have suggested a number of areas where there are savings—both large and small. All I ask is a finder's fee from those savings to help Oakland!

Thank you.

SUPER GLASS CORP.,
Brooklyn, NY, February 13, 1985.

Hon. STEPHEN J. SOLARZ,
House of Representatives, Longworth House Office Building, Washington, DC.

MY DEAR CONGRESSMAN: This letter is an urgent request for your favorable consideration in the refunding of the Trade Adjustment Assistance Program.

Our company is currently receiving technical assistance through this program for engineering design of a state-of-the-art fuel efficient glass melt furnace. When this new furnace is in operation it will save us an estimated 50% of our present fuel costs. Fuel is a major cost in the production of glass, therefore, a reduction in fuel costs will make us more competitive with imports and help save jobs.

The furnace design is only one project that is planned for us with the help of the Trade Adjustment Assistance Program. We are hopeful that this program will continue not only for our needs but for other manufacturers.

Please see that this is entered into the Congressional record.

Sincerely,

BARNETT FRIEDMAN, *President.*

VALTEX INDUSTRIES, INC.,
Puerto Rico, PR, February 20, 1985.

Hon. WILLIAM GREEN,
House of Representatives, Longworth House Office Building, Washington, DC.

MY DEAR MR. GREEN: We urge your favorable consideration of refunding of the Trade Adjustment Assistance Program for the coming fiscal year.

Our company will continue in operation, to a large extent, because of technical assistance was made available through this program. Technical assistance enabled us to develop a strategic marketing plan which should increase our sales of ladies intimate apparel by 50% over a 3 year period.

The plan called for the development of new products and the entry into new channels of distributing. Our intital efforts have been well received by our retailer clients. As our volume increases, we will be expanding our present work force of 228 to 290.

This capsule view of our company's progress is intended to convey the thought that Trade Adjustment Assistance does indeed work. This program should remain available for other manufacturers whose business may have suffered from import impact.

Please be good enough to include the above facts in the record.

Sincerely,

PETER VALE, *President.*

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY[1]

This statement is limited to the International Trade Commission, specifically the structure of the Commission and the adequacy of ITC investigation and analysis in import-relief cases.

COMMISSION STRUCTURE

We question the need for six commissioners (the statutory complement). Although, after inexcusable Presidential delays in filling commissioner vacancies, the Commission again has its full statutory complement, this return to full strength (so-called) is not the same as being strong. There is reason to believe that the Commission would operate more efficiently and productively with fewer than six commissioners. Each seat terminated would save the taxpayers more than $100,000 a year when the total costs of each commissioner's office are considered. The Commission got along well with four or five commissioners at various times in its long history.

We also question the wisdom of the statutorily required rotation of the ITC chairmanship (and vice chairmanship) every two years. Each commissioner is not ipso facto qualified to be chairman, to mention only one of the flaws in the rotation routine. In addition, we question the authorization of a personnel professional staff (particularly a legal advisor) for each commissioner, notwithstanding the legal and economic staffs of the Commission per se. We understand that each commissioner is authorized to have four persons, of whom no more than one can be higher than GS-15 and no more than one additional person can be higher than GS-14. We suggest Congressional inquiry into the extent to which the existence of these private staffs has led to undesirable rivalries between the respective staffs, adversarial relations between commissioner staffs on the one hand and the Commission staff on the other, and other developments affecting adversely the quality and utility of commissioner opinions in import-relief and other cases. The budget savings from reducing or eliminating these personal professional staffs may be of little consequence but, even if this be the case, it is no justification for neglecting inquiry into the desirability of such reform. The money saved in reducing or removing these private staffs might be spent more productively in strengthening the economic and legal staffs of the Commission per se.

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[1] The U.S. Council for an Open World Economy is a private, nonprofit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act of any "special interest."

COMMISSION PERFORMANCE IN IMPORT-RELIEF CASES

The Commission is not fulfilling its explicit and implicit obligations under the Trade Act of 1974 in import-relief investigations. It is neglecting the full implications of Section 201(b)5 of that legislation by not fully assessing the adequacy of steps that the petitioning industry has taken toward becoming more competitive with imports, and not assessing the extent to which government statutes and regulations may be impairing the industry's adjustment capability. Also neglected is assessment of the different impacts which import restriction may have on different sectors of the industry. Windfall gains for sectors not needing government help may cause additional problems for those that do.

Not all these analytical factors may materially affect the Commission's decision is every case, but all are important for the President to take into consideration if he wishes to develop a coherent industry-adjustment policy with respect to and in cooperation with the petitioning industry, whether or not the Commission finds serious injury or the threat thereof, but particularly if it does. Such an adjustment strategy should be the framework for any resort to import control, and the trade legislation should so require. However, the President is free to proceed along these lines even without a legislative mandate, and the ITC should want to help him in this regard in every way it can. Nothing in the trade law prevents the Commission from doing so. In this regard, the Commission is less imaginative and innovative than it can and ought to be.

Appended to this statement is a copy of the letter I sent President Reagan on July 9, 1984, urging the President to initiate the reform outlined above in his handling of the import-in-injury findings in steel and copper which the Commission had just announced.

CONCLUDING COMMENT

In short, the International Trade Commission itself is as much in need of overhaul as its rickety old building. The need for reform in Commission structure and performance is not getting the attention it deserves from both ends of the "the Avenue".

U.S. Council for an Open World Economy, Inc.,
Alexandria, VA, July 9, 1984.

The President,
The White House,
Washington, DC.

Dear Mr. President: I am writing to propose an innovative initiative on your part concerning how best to respond to the International Trade Commission's recent findings of serious injury in the steel and copper cases, and to the expectation that the Commission will recommend import restrictions of some kind for the affected steel products as it has now done for copper. I virtually pioneered this kind of initiative in the 1960's.

Very briefly, I urge that, if you accept the ITC findings of serious injury and consequently proceed with some form of import restraint, you should cast these import restrictions in the framework of a coherent steel-industry adjustment strategy (and, in the case of copper, a coherent copper-industry adjustment strategy), targeting the real problems and needs of these industries in the context of the total national interest. Any import restrictions you decide upon are supposed to buy time for the particular industry to strengthen its competitive position. But passive expectation that the industry will do what needs to be done is not a sufficient basis on which to predicate such a government subsidy. Instead of such a pig-in-a-poke approach to import restraints (long in need of reform), a coherent redevelopment strategy (possibly including some restructuring of the particular industry) should be formulated in close association with the industry's corporations and labor representatives. Business and labor commitments toward building a viable industry should be a condition for any help the government might provide. The trade legislation says nothing about your proceeding in this fashion, but nor does it prohibit you from doing so—that is, at least attempting to mold a strategy comprising measures by business and labor as well as government.

The nation has never had such strategies with respect to industries for which import controls (in other words, subsidies) have been provided. Such a strategy should include reassessment of all statutes and regulations materially affecting the industry's ability to adjust to current economic realities, and correction of any inequities that may be found in these statutes and regulations. If you decide that import restrictions are necessary and cannot be delayed until the related adjustment strategies are in place, you could establish the import restraints you deem necessary and declare that the related adjustment strategies will be forthcoming as quickly as possible. Incidentally, such strategies could help accelerate termination of any import restraints you may decide to establish. If you feel that import restriction is not an advisable remedy but that government assistance of some kind is necessary and proper, a coherent, comprehensive program of government help not including import restraint, and in concert with measures by business and labor, should be the framework for the assistance provided. Such aid should include, but not be limited to, possibilities of "adjustment assistance" the trade legislation authorizes for individual firms, workers and communities.

Unfortunately, I have serious doubts as to whether the material now available to you from either the International Trade Commission or the appropriate executive agencies includes the kind of documentation you would need for the kind of assessment and policy framework I have advocated. In this connection, it is unfortunate that the footwear case, in which the ITC rejected the footwear industry's petition for import relief, did not for this reason reach you at all so that you might determine what if any government assistance the footwear industry might merit even though there was no finding of serious injury (or threat thereof) from imports. You may nevertheless wish to look into the possible need for, and the advisability of, assistance to the footwear industry along the lines I have outlined.

If, as I suspect, the record before you in the steel and copper cases does not include the kind of documentation to which I have referred, I recommend that you send these cases back to the Commission for such information, and that you concurrently ask the appropriate executive agencies to prepare for you the kind of material you will need for the kind of attention I believe you should give these cases.

In short, Mr. President: no steel import controls (or other government aid) without a coherent steel policy, and no copper import controls (or other government aid) without a coherent copper policy.

Please let me know if I may be of any assistance on these issues. Our Council does not act on behalf of any "special interest". Our sole concern is the total national interest.

Best wishes.

Sincerely yours,

DAVID J. STEINBERG, *President.*

J.H. WESTERBEKE CORP.,
Avon, MA, February 19, 1985.

Hon. BRIAN J. DONNELLY,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN DONNELLY: I understand that the Trade Adjustment Assistance Program is in danger of being eliminated from the federal budget this year, and I wanted to make you aware of our experiences with this program and ask for your support for it.

We employ 75 workers here in Avon. We manufacture marine engines and have lost business to imports. Through the Trade Adjustment Assistance Program, we received expert help in finding areas where we could make improvements to increase our profitability, namely marketing and engineering. The New England Trade Adjustment Assistance Center helped us hire consultants who could provide just the services we needed. We paid for 25% of the cost of these services.

Because of the help we received from NETAAC, we have speeded up our production line and are in the process of diversifying our markets. From our point of view this is one federal program that delivers.

I believe the TAAC program is deserving of your support. Please consider this letter as part of the official record for hearings on this program.

Respectfully,

JOHN H. WESTERBEKE, Jr., *President.*

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